24

642297
S. Inst.
37

THE

UNIVERSITY STUDIES

OF THE

UNIVERSITY OF NEBRASKA

VOLUME XIII

Smithsonian Institution
328800
U. S. National Museum

LINCOLN
PUBLISHED BY THE UNIVERSITY
1913

PRESS OF
THE NEW ERA PRINTING COMPANY
LANCASTER, PA.

CONTENTS

CRAWFORD—English Interjections in the Fifteenth Century 361

FRYE—The Theory of Greek Tragedy 299

POUND, LOUISE—On Indefinite Composites and Word-Coinage 407

POUND, OLIVIA—On the Application of the Principles of Greek Lyric Tragedy in the Classical Dramas of Swinburne 341

WALLACE—The First London Theatre 1

LIBRARY OF CONGRESS
SMITHSONIAN DEPOSIT

VOL. XIII JANUARY–APRIL–JULY 1913 NOS. 1, 2, 3

UNIVERSITY STUDIES

PUBLISHED BY THE UNIVERSITY OF NEBRASKA

SMITHSONIAN INSTITUTION
JUN 29 1934
NATIONAL MUSEUM

COMMITTEE OF PUBLICATION

C. E. BESSEY
F. M. FLING
P. H. GRUMMANN
W. K. JEWETT
L. A. SHERMAN

CONTENTS

THE FIRST LONDON THEATRE, MATERIALS FOR A HISTORY

Charles William Wallace 1

LINCOLN, NEBRASKA

By transfer
The W[illegible]te House

University Studies

Vol. XIII *JANUARY–APRIL–JULY 1913* Nos. 1, 2, 3

THE FIRST LONDON THEATRE:

Materials for a History

BY CHARLES WILLIAM WALLACE

INTRODUCTORY SURVEY

The story of the first London theatre, from the date of its inception by James Burbage in 1576 to the full florescence of Shakespeare in 1599, has a human interest of its own, and at the same time furnishes a historical background of some of the intimate personal conditions that made the dramatic and histrionic achievements of Shakespeare and his associates at the Globe supreme. That story, based upon a large collection of documents, bringing us into close personal contact with Richard and Cuthbert Burbage, their father, and the life in and about the Theatre, may here be told in a brief survey of the human side as a help to the student in unraveling the voluminous records. The complete history, with other added documents, must wait yet awhile. Around the business arrangements made for building and managing the Theatre, centre the records of the Burbage-Brayne controversy, ranging over a period of nearly twenty years; and about the destruction of the Theatre in 1598, grew the voluminous documents of the Burbage-Allen litigation of 1599 to 1602, recounting their business relations from the first. It is these two interwoven series of records that the present collection presents in entirety.

The twenty-one-year lease of the grounds on which the Theatre

was bu[illegible]d April 13, 1576, expired April 13, 1597. In February, 159[illegible], two months before the expiry, James Burbage, the lessee, died, and the troubles engendered in the course of years between him and others concerning it, now fell upon his widow and administratrix, Ellen Burbage, and their sons Cuthbert and Richard.

The historical background of the conditions in which the Burbages found themselves in 1597–98 ranges from roseate hope to gray reality. They had in these twenty-one years lived through the most remarkable development of theatres, companies, and dramatic methods of all time,[1] and had been near the heart of all changes. Already theatres had come and theatres had gone. Their own, so distinctive in its soleness at first as to be called "The Theatre," was the first to rise. It was begun with high hope, and was maintained through the years under grave difficulties. The first Blackfriars theatre, which opened under Richard Farrant only a few months after the Theatre, came to an end in 1584, in a series of bitter litigations. Its complete history, based upon approximately a hundred documents found by the present writer, is related for the first time in *The Evolution of the English Drama up to Shakespeare,* above referred to.[2] An old playhouse built at Newington Butts in Southwark at some unknown date, presumably in these early days of development, was in 1599 only a memory, as shown by a contemporary record to be published later. Meanwhile, some of the old inns of London were either prohibited by the City authorities from further use

[1] See Wallace, *The Evolution of the English Drama up to Shakespeare* (Berlin, 1912), *passim.*

[2] It is greatly to be regretted that a Frenchman, A. Feuillerat, using information derived from me, and finding seven of these hundred Blackfriars documents, hastened to publish them in fragmentary anticipation of my complete work, and afterwards, through the public press and influence upon reviewers of my book, attempted to enlist public opinion by misrepresentation of the facts. Research is beset with many difficulties, but this is one of the things that time will set right. One needs only to lay his fragments by the side of the complete history to find the truth. A statement of the facts may be seen in *The Athenaeum,* January 4, 1913, continued from November 23.

as playhouses, or their companies were driven out of business or into the new theatres in the suburbs.

Companies in all the public theatres shifted and changed like satellites in erratic orbits about central suns. None were stable. Uncertain financial conditions, internal differences, or other theatrical troubles were the common causes. Almost every change of company can be traced to financial difficulties. More than an equal share of these troubles huddled on the backs of the Burbages in connection with the Theatre and its companies from the first. Briefly may we survey the troubled years that led up to the organization of the Burbage-Shakespeare company and the building of the Globe.

James Burbage was reared to the trade of carpenter and joiner. One of his enemies, Robert Myles, goldsmith, said of him in 1592 that "he never knew him but a poʳ man & but of ſmall Credit, being by occupac*i*on A Joyner, and reaping but A ſmall lyving by the ſame, gave it over, and became A Com*m*en Player in playes." Burbage was one of the principal actors in Lord Leicester's company, and in 1574 he and his associates obtained the first royal patent ever granted in England to a company of players. This was primarily intended as a means of protection against the constant opposition of the City authorities. Still the opposition continued, and made acting at the inns difficult. Burbage talked the situation over with his brother-in-law and others. He showed them that the erection of a building devoted solely to play-acting would be profitable. There was the constant demand of the Court for plays, and the growing demand of the public. But the opposition of the City made it necessary to find a location outside its jurisdiction. He cast about, and found such a location in the precincts of the old dissolved Hallywell priory in Shoreditch, north of the City. Here he found he could get cheaply, for only 14*l.* rent per annum, a plot of ground, with some old buildings on it.

Old men and women agreed in the statement of Thomas Bromfield in 1600, concerning the nature of the buildings in 1576, that "they weare houſes of Offyce as A Slaughter houſe and Brewe houſe and low paulterye buyldinge*s*". Richard Hudson, a car-

penter, who worked on them and helped Burbage convert them into habitable places, described them in 1600 as being in 1576 "ould decayed and ruynated for want of repa*r*acions and the beſt of them was but of twoe ſtories hie." A man whom Burbage long employed about the Theatre, Randolph May, who knew the property all his life, likewise remembered them in 1600 as "very ſymple buyldinges but of twoe ſtoryes hye of the ould faſhion and rotten," and adds that they were "ould houſes of office and ſome of them open that Roges and beggars harbored in them."

The principal building was a long, rickety old tile-roofed barn, eighty feet long and twenty-four feet wide, built of timber, one end used as a barn by Hugh Richards of Coleman street, the other end as a slaughter house by Robert Stoughton, butcher. Part of the barn served also as tenements, and one of its occupants at that time, Oliver Tilt, deposed in 1600 that "yt was lyke to have fallen downe and was ſo weake as when A greate wynd had come the tenant*e*s for feare have bene fayne to goe out of yte." In fact, to keep it from falling down, when making it over into eleven tenements, Burbage had it cross-beamed and strengthened and shored up by the carpenters, Bryan Ellam and his son-in-law Hudson, as they testified, to the Theatre, which was built wholly new only a few feet from it.

Such was the uninviting site, just adjoining Finsbury Fields, chosen for the first London theatre, the cradle of the young English drama. But Burbage was a builder, a planner, and saw possibilities in it. The buildings could be renovated, repaired, made decent, even habitable, and the rent from them would pay back the annual expense of the lease. If a theatre could be built, the income from it would be clear profit. The plan was alluring. So on April 13, 1576, James Burbage secured a lease of the property from the owner, Gyles Alleyn, for twenty-one years at 14*l.* a year, plus a "fine" or bonus of 20*l.*, with provision for a ten-year extension if Burbage should expend 200*l.* on buildings and repairs aside from the cost of building his proposed theatre, and with further provision that such building as he should erect for a playhouse might be taken down and removed by him within the

period contemplated by the lease. For the performance of his part in the agreement, Allen gave Burbage a bond of 200 *l.*

Burbage lacked money. Some dozen men who knew him then declare that he was not well-to-do, and some of them testify that he was not worth 100 *l.*—an apparent minimization. His brother-in-law, John Brayne (or Braynes), whose sister Burbage had married, was stirred with enthusiasm at the speculative prospects of the project. Brayne was a prosperous grocer in Bucklersbury, near Grocers Hall, well thought of in London, believed by his friends to be worth at least 500 *l.*, and commonly reputed to be worth 1000 marks. Whether urged by Burbage, on the representation that the building of the theatre would not cost over 200 *l.* and that the profits would be great, as witnesses for the Braine faction in 1590–92 testified, or whether, seeing large hopes in the project, Brayne urged his brother-in-law to let him share with him, as the Burbage faction claimed, Brayne did at any rate join with Burbage in a plan to build and conduct the Theatre on equal shares of expenses and profits, and appears even to have agreed, since he had no children, to leave his half interest at death to Burbage's children, as represented in the Chancery bill of 1588.

The new venture was entered upon with high hopes. Burbage raised all the money he could, even mortgaging the new lease to a money-lender for all he could get on it. Brayne sold his stock of groceries to Edward Collyns for 146 *l.* and his house to the elder Collyns for 100 *l.* The entire proceeds of 246 *l.* he put into the building of the Theatre, 40 *l.* of it going into iron-work alone. It was said by some of his friends afterwards that he borrowed still more, that he spent, some said, 500 *l.*, some 600 *l.*, some 700 *l.*, and that Burbage did not spend over 50 *l.* One of the most partisan of the witnesses, Robert Myles, himself later litigiously interested in the Theatre by executorship, even says in 1592 that Burbage admitted he spent less than 100 *l.* and further reports Brayne as saying Burbage spent but 37 *l.* in money, and furnished timber to the value of 50 *l.*, charging sometimes 6 *d.* for a groat's worth of stuff. But Myles was Burbage's deadly enemy. He adds that Brayne sold all he had to raise money, some 600 *l.* to 700 *l.*, pawned his clothes and also his wife's, ran in debt, he and

his wife worked as laborers in finishing the building to save the hire of two workmen, while Burbage, if he worked at all, was paid laborer's wages.

On the other hand, Henry Beth, a lawyer of Lincoln's Inn, who had drawn many papers for both Brayne and Burbage, who was familiar with their business, and who had at various times examined their account-books and taken notes from them, deposed at the same time that Brayne's share in the first cost of the Theatre, as he himself had confessed in 1582, was 239*l.* 6*s.* 6*d.* That would make the total first cost to both parties about 480*l.* Unable to raise sufficient money otherwise, they began acting plays in the building before it was finished, and used the proceeds to complete it. Later they spent more money on it, enough to make a total of approximately 700*l.* It was the common impression among their friends and neighbors that the Theatre cost about 1000 marks (666*l.*), and that Brayne paid the most of it. And even Henry Lamman, whose own evidence as well as that of John Allen reveals him as proprietor of the Curtain theatre, after some years of intimate business relations with Burbage and Brayne in managing both the Theatre and the Curtain, gives this as his understanding of the facts. Whoever may have been responsible for raising the funds, it turns out at any rate that each bore the burden equally. That they shared profits equally is also testified by many persons, among the number being Henry Johnson, "gatherer" at the Theatre, who handled all the money, and John Alleyn, one of the actors, an elder brother of Edward Alleyn.

No written agreement appears to have existed between Burbage and Brayne at first. Burbage owned the lease, and Brayne had spent much money on the property. In accordance with their general understanding, Burbage was willing to assign one half of the lease to Brayne. Accordingly, on August 9, 1577, an assignment was drawn up by William Nicoll, the scrivener, whose evidence we have on it. But Burbage did not seal and complete it, because the original lease was still in pawn for a loan to build the theatre. Therefore, on May 22, 1578, Nicoll drew up a bond between them, binding Burbage in 400*l.* to make over one half

of the lease. This bond was sealed and delivered by Burbage, and was in 1590–92 introduced as evidence in court. Nevertheless, Burbage never did make the assignment. The lease remained in his name to its termination, nearly twenty years later.

Within a month or so after the above bond for assignment, the brothers-in-law fell out over the receipts, Brayne charging Burbage with indirect dealing. Robert Myles even says that Burbage had had a false key to the cash-box made by a smith whom he names as one Braye, of Shoreditch, and that he stole money thus from Brayne and from his fellow-actors, also sometimes put money in his bosom, and even confessed his peculations, during these first two years. All of which we may properly discount upon full acquaintance with Myles. The dissension was serious enough to require an arbitration of their interests, which they referred by agreement to two friends, John Hill and Richard Turner. While the arbitrators were considering their claims, Burbage and Brayne went to the office of the scrivener Nicoll to have him draw up papers. There Brayne accused Burbage of wronging him, saying among other things that he had spent three times as much as Burbage on the Theatre. In the midst of their altercation, Burbage struck Brayne with his fist, "and so they went together by the ears," says Nicoll, "In somuch that this deponent could hardly part them."

On July 12, 1578, just following the quarrel, Hill and Turner signed and sealed the articles of arbitrament, and Burbage and Brayne each gave the other a bond of 200 *l.* to perform the conditions imposed. By the terms of the arbitrament, concerning which the direct testimony of John Allen and Ralph Myles in 1592 is particularly valuable, Burbage and Brayne were to be considered as equal partners in the lease, buildings, and profits. The lease could be mortgaged only by both joining in the mortgage. Then the rents and profits were to go to paying off such mortgage. Next, out of the weekly plays, the debts of both parties for the Theatre were to be paid, and meanwhile out of the Sunday plays Brayne was to have 10 *s.* a week and Burbage 8 *s.* a week. Next, all profits of weekly plays, after payment of the above theatre debts, were to go wholly to Brayne, until he

should be paid the amount spent in excess of Burbage's expenditure. Thereafter, they were to share equally.

The failure of one party or the other to perform the arbitrament was the cause of bitter contention and long litigation for the next twenty years both within the family and without. Moreover, the part of the agreement relating to Sunday plays could not be carried out in full. The City had long insisted on allowing no plays or other recreations on Sunday, and the city records contain many orders prohibiting them. Finally, to stop the practice, Burbage and Brayne were indicted at the Peace Sessions of Middlesex (the record is well known) for acting plays on the Sabbath, the specific performance of Sunday, February 21, 1580, being cited, since a specific charge was necessary, and those before and after being referred to only in general terms. On April 12, 1580, the Lord Mayor complained to the Lord Chancellor of disorders at a play at the Theatre on the preceding Sunday, mentioning that he had begun action against the players, but that, finding the Privy Council had it in hand, he left it to them. These actions and repeated City orders at least interrupted if they did not wholly prohibit their playing on Sundays, thus preventing that part of the arbitrament from being fulfilled,—a point that Burbage's second question to Ralph Myles, April 26, 1592, aimed to establish, but without getting an answer.

Debts were not immediately wiped out. Brayne in fact had gone into debt heavily on his own account, and either before or during the building of the Theatre he had made a deed of gift of his property to save it from creditors. This was a favorite method of Brayne (and others) when heavily indebted. Sometimes he made the deed of gift to William Thompson, his brother-in-law, who had married his wife's sister, sometimes to John Gardner, sometimes to one Ashburnham, or to some one else. For example, in 1579, he made such a deed to Thompson, to save himself from a judgment of 25*l.* 10*s.* 1*d.* in favor of John Hynde, haberdasher, which had been placed in the hands of the bailiff to execute. Also in other cases, not directly connected with the theatre, he took similar action, and left Burbage and his other securities to settle the debt. He got most deeply into debt,

some 800 *l.* to 900 *l.*, by building the George Inn, in Whitechapel, to which, rather than to the Theatre, many of the financial difficulties that involved the Theatre seemed traceable, as Burbage, attorney Bett, former bailiff James, John Hynde and others in their depositions of 1591–92, indicate.[3] In 1597, Brayne and Burbage were indebted in another sum of 5 *l.* 13 *d.* to John Hynde, the haberdasher. On the afternoon of June 23, about two o'clock, Burbage was arrested for the debt in Gracious street as he was on his way to a play at the Cross Keys there, and was able to free himself only by at once paying the Sergeant at Mace the whole amount.

In spite of the apparent general prosperity of the Theatre, laudly complained of by the puritanical in pulpit, pamphlet, and City orders, the partners could not get out of debt. On September 26, 1579, through the intermediacy of a money-broker, John Prynne, and by mutual agreement of the partners, Brayne and Prynne got of John Hyde, grocer, 125 *l.* 8 *s.* 11 *d.*, for which James Burbage at the same time signed a mortgage of the lease in security for one year. At the end of the year, the amount was not paid, and the mortgage was accordingly forfeited to Hyde on September 27, 1580. Then Hyde, as he relates, agreed with the proprietors to extend the loan, on condition that they pay him 5 *l.* a week until all should be paid. This they carried out for only four or five weeks, and the mortgage was again forfeited. Thereby, Hyde became legal owner of the lease of the Theatre. By agreement he allowed Burbage and Brayne to continue the business. But he was greatly dissatisfied with the results, as he received no profits from it. He threatened to put them out, and thereupon in June, 1582, arrested Burbage, who, upon payment of 20 *l.* and the signing of a bond to appear at Hyde's house at an hour's notice to be subject to his action, was allowed to go on.

[3] Numerous documents—enough to fill a small volume—have been found by the writer in different courts concerning the George Inn, of Whitechapel, relating its troublous early history from the first. They are of no immediate interest beyond showing the financial relations of Brayne, Burbage, and Myles in the business, through which the interests of the Theatre were jeopardized, as here sufficiently observed for the present.

But Burbage complained to Hyde that Brayne took to his own use the money received at plays, and refused to deliver any of it to him or to Hyde. Whereupon Hyde appointed a servant or agent with Burbage to dismiss and put out Brayne from the Theatre. As he could not get rid of Brayne, however, he appointed them to collect and deliver 5 *l.* weekly, thinking thus to pay himself with the profits. But by this means Hyde was able to collect only 20 *l.* to 30 *l.* Brayne never at any time paid any sum on the mortgage.

Meanwhile in 1582, during a bitter suit by Edmond Peckham against Gyles Allen over the ownership of the grounds on which the Theatre stood, Peckham tried to get possession by force, and James Burbage, whose life was on one occasion endangered in protecting the property against Peckham and his servants, was compelled to hire men and to keep them on the premises day and night to guard the Theatre and defend his rights. As Cuthbert Burbage related in 1600, it was for his father's expense in this that he withheld 30 *l.* of the rent from Allen, which remained an item of contention and dispute for sixteen years. Two men employed during the whole period of the Peckham siege, Randolph May and Oliver Tilt, gave in 1600 a graphic notion of the situation. As a result of the annoyance, plays were stopped, Burbage lost money, and his company, the Earl of Leicester's servants, who had played there from the first, was broken up. That was the end of Leicester's company in London. Their last recorded performance was *A History of Telomo* at Court on February 10, 1582[–83].[4] After the Peckham trouble, deposed attorney Bett, Brayne seemed not to care for the Theatre, and said if the profits would not redeem the lease, it might go.

The breaking up of Leicester's company was the beginning of a readjustment of all the London companies. The principal men who caused this condition by leaving the Theatre were Robert Wilson, the dramatist, Richard Tarleton, the famous comedian, John Laneham, and William Johnson. In March, 1583, with the

[4] For a list of plays at Court, see the present writer's *Evolution of the English Drama up to Shakespeare* (1912), 199–225.

help of Edmond Tylney, Master of the Revels, who assisted in selecting the actors by appointment of her Majesty, a new company was formed around this nucleus, consisting of twelve of the best actors of London, under her Majesty's patronage, called the Queen's Servants.[5] Thereafter they wore her livery and were given the rank of grooms of the chamber—the first instance of such recognition by royalty.[5] I shall later publish in extenso a license granted by the City to the Queen's men, dated 28 November, 1583, wherein we learn for the first time that the twelve chosen actors were "Roberte Willson, John Dutton, Rychard Tarleton, John Laneham, John Bentley, Thobye Mylles, John Towne, John Synger, Leonell Cooke, John Garland, John Adams, and Wyllyam Johnson," and that their playing places were to be "at the Sygnes of the Bull in Busshoppesgate streete, and the synge of the Bell in gratioustreete and nowheare els wthin this Cyttye," for the time being. This company was thereafter the favorite at Court until its dissolution about 1591. Its leader was Robert Wilson, to whom payments for their Court performances were regularly made. The principal rivals of it were the Admiral's and the Chamberlain's men, at the Curtain and the Theatre, as we now find.

It has hitherto been supposed that the Queen's men acted at the Theatre. No document to that effect is known. The new evidence, moreover, indicates that they did not, and that Burbage was not connected with them.

Before the organization of the Queen's players, Burbage had already taken steps. He was a good organizer, and was not without support at Court. Around the remnants of the Leicester's company still remaining with him after the Peckham trouble of 1582, Burbage appears to have reorganized, under the patronage of Lord Hunsdon, cousin to the Queen. Lord Hunsdon's players are first heard of at Court at the following Christmas season of 1582–83. Then, in a well known account of the City's trouble with players in 1584, dated June 18, preserved in *Lansdown MSS.*

[5] See the account in Stowe's *Chronicle* (ed. Howes, 1615) under 1583; also contemporary records in Collier, I, 247.

41, the Recorder of London reported that "the owner of the Theatre"—by which he could have meant no one else than Burbage—declared he was Lord Hunsdon's man.

The support accorded to Burbage at Court is significant to the next two steps with reference to companies and theatres. It is further stated by Recorder Fleetwood that "Upon Sonndaye my Lo [*i. e.,* Lord Mayor] ſent ij Aldermen to the Court for the ſuppreſſing and pulling doune of the Theatre and Curten All the LL agreed therevnto ſaving my Lord Chamberlen [Lord Charles Howard, 1583–85] and m^r^ vizch [Sir Christopher Hatton, 1577–1602] but we obteyned a lre to ſuppreſſe theym all/" Yet no such order was executed. Then on July 4, 1858, Lord Howard was made Lord Admiral, and Lord Hunsden succeeded him in the office of Lord Chamberlain. Within the next three months, it was thought advantageous for Burbage and Brayne to make an alliance with Henry Lanman, proprietor of the Curtain, which stood adjoining to the Theatre property. The notion was, that the Curtain should serve as an "easer" to the Theatre, as it was put. Accordingly, as Laneman and others deposed in 1592, an agreement and bonds were signed for a term of seven years, dated Michaelmas, 1585, whereby Burbage and Brayne were to have one-half the profits of the Curtain and Theatre, and Laneman the other half. Three months later, during the Christmas season of 1585–86, the Lord Chamberlain's men and the Lord Admiral's played at Court together. Also, in 1590, as John Allen deposed, the Admiral's men were under Burbage at the Theatre.

It would seem that, from 1583, Lord Hunsdon's men (called the Lord Chamberlain's after 1585) acted at the Theatre, and the Admiral's at the Curtain for about two years, and that in 1585 the two companies and their theatres were united under one management. It is well known that the company with which the Burbages and Shakespeare were associated in and after 1594 was the Lord Chamberlain's, and it appears now that the beginnings of that illustrious company go back to 1582–83, when Leicester's company split on the Peckham rock. A further word will be said when we come to the next reorganization of companies as the result of another split at the Theatre in 1590–91.

In 1582–83, Burbage made extensive improvements in the property. Near the Theatre he built a house for his own use, mainly out of new materials, at a cost of 200 *l.* On the evidence of Ellam and Hudson, carpenters, he either then or some time before repaired the other buildings, shored up the old long barn to the Theatre, grounselled, cross-beamed, dogged together and strengthened it, so that it was fit for use as tenements. He converted the barn into eleven tenements, which he rented to poor people at 20 *s.* per annum, according to the statement of Giles Allen in Star Chamber, in 1602. That the poor people thus housed were a hardship on the parish, as Allen complained after nearly twenty years of their residence there, one may have leave to doubt, when one remembers that wandering rogues and vagabonds previously harbored there. That Burbage improved the old mill-house and other buildings and got considerable rent from them is apparent. The income from the houses probably paid in full the annual rent of 14 *l.* on the Theatre grounds, leaving Burbage his own residence rent-free.

The above expenditures on improvements, amounting to about 220 *l.*, were in fulfilment of the agreement to spend 200 *l.* on improving the property, besides building the Theatre, within the first ten years, in consideration for which the landlord was to grant a ten-year extension of the lease. But when 1585 came round, and Burbage brought the new lease for Giles Allen to sign, trouble was engendered between them which lasted the rest of Burbage's life.

When Burbage and the scrivener brought Allen the new lease, in the presence of his later witnesses, Philip Baker, John Goldborn, Henry Johnson, and others, he refused to sign it on the ground that it was "not verbatim agreeable with the ould lease," which Burbage told him was the fault of the scrivener's, not his. Then Allen wanted time to consider it. Upon Burbage's refusal or demurrer, Allen said he would take leave. So he pocketed the lease, and never did sign it. A verbatim copy of the 1585 lease, incorporating the substance of the 1576 lease, is preserved in the suit of Allen *v.* Street, 1600. It closes with a special provision

for Allen and his family to have a "room" or box at the Theatre free to see plays at any or all times according as he might wish.

Allen's real reason for not signing lay in his objection to the playhouse and his desire for more money. He claimed also that Burbage had not spent 200 *l.* in improvements. So on November 20, 1585, Burbage had the property viewed by three experts in building, former workmen there, Bryan Ellam, William Botham, and William Clerke, who estimated his expenditures on buildings, aside from the theatre, at 220 *l.*, and so entered and signed their verdict in Burbage's account-book. Still Allen refused on the evidence to grant the extension. Meanwhile, Burbage made still other improvements, and on July 18, 1586, he had six appraisers value his expenditures, Brian Ellam, John Griggs, William Botham, William Clarke, Thomas Osborne, and Richard Hudson, all practical builders and later important witnesses, who found he had spent 240 *l.* in the last three to five years. This likewise they entered and signed as their appraisement in Burbage's account book. But Allen remained obdurate.

Meantime, Brayne became heavily involved in debt, mainly, it seems, through building the George Inn in White Chapel with Robert Miles, goldsmith, at an expense of 800 *l.* to 900 *l.* as already noticed. He put all his property into the hands of others by deeds of gift to defraud creditors, and absented himself for a time, as also did Miles, so that when the bailiff went to levy on their goods and arrest them, they could not be found.

Under this state of affairs, Brayne died in August, 1586, charging Miles with being the cause of his death. In fact, he died from certain "stripes" Miles had given him, as is brought out in the depositions of Burbage *v.* Brayne in 1591–92. His will, which it is not necessary to publish, an old one, dated 1578, and proved Aug. 10, 1586, makes no mention of the Theatre. At the suit of the widow and executrix, Margaret Brayne, Miles was tried for murder at the coroner's inquest. Yet Miles and Brayne had been close friends, and after this event, the widow and Miles were equally close friends even to her death some ten years later, Miles becoming then her sole legatee. Miles claimed that Brayne at death owed him 500 *l.*, and the widow declares in her will that

she owed him more than all she possessed and expressed her life-long gratitude to him.

After the death of her husband, Margaret Brayne made life at the Theatre during the rest of her existence more exciting than profitable. She received her share from the Curtain for a time, and also from the Theatre for a while. When she had about 30 *l.* from the Theatre, Burbage suddenly cut her off from further income in the business, say John Allen, Ralph Miles, John Hyde, and others who took sides later against Burbage. Also, shortly after Brayne's death, the mortgagee, John Hyde, and his father-in-law George Clough, tried to oust Burbage from the Theatre, and put in Clough. But by something in the agreement with Burbage they could not—even when they falsely represented, as Hyde admits, that Hyde had sold Clough the forfeited lease, and Clough brought or threatened suit against Burbage for possession.

Then in the early part of 1587 began a long series of litigations between the widow Brayne and James Burbage. Miles backed her with money, and threatened to spend all he had, if need be, in order to win against Burbage. Also, in 1587, John Gardner died, to whom Brayne had made over some of his property by deed of gift, and the executors likewise sued Burbage. Still he held the fort. In 1588, he in turn sued the widow. And so for the next ten years the contest raged between them—always with Burbage as victor, supported by the decisions of the Court.

Both Burbage and the widow Brayne went to see Hyde again and again in the matter of assigning them the lease. Each wanted it, but Hyde assured them that he would deliver it, not to one of them only, but to both of them, whenever they paid him the rest of the 125 *l.* he had loaned on the Theatre, together with interest. Finally, he said he would wait no longer, and would deliver it to the one who should first pay him. Hyde says that Burbage sundry times wanted him to convey the lease to his son Cuthbert, but Hyde was loth to do it, without the widow's consent. Yet meanwhile Hyde was, as he admits, planning to sell the lease to his father-in-law Clough and one Middlemore.

In June, 1589, Burbage and his son Cuthbert appealed to Walter Cope in the matter. Cope was gentleman usher to the

Lord High Treasurer of England, and in that important post had great influence. He was intimate with every high official of the realm, and later himself became one of the powerful men of England under James I. Cuthbert Burbage, a young man of only twenty-two years, according to his own deposition, was then and for some years later employed by Cope as his "servant," probably as clerk in some department of the Treasury. Upon the request of Cuthbert and his father, Walter Cope wrote a letter to John Hyde suggesting that Cope might be of service to Hyde with the Lord Treasurer sometime, if he would be so good as to convey to Cuthbert Burbage the lease of the Theatre. So Hyde did it. He said afterwards, as Bett testified, that if it had not been for Cope's letter he would not have sold to Cuthbert, but to Clough and Middlemore, who very much wanted it. It was a close shave for the Burbages—and possibly for the future drama.

Cuthbert Burbage entered into this arrangement to save his father from the ruin of debts incurred by him and Brayne. He was sorry afterwards that he did it, for otherwise, he said, he might have used his suit to better purpose for his advancement by Cope, as was done by some of his fellows who had not been in service with Cope so long as he had been.

Hyde had owned the lease absolutely, by virtue of the forfeited mortgage, and held it as his, he declares, during the years after the forfeiture. He had a right therefore, later disputed unsuccessfully in the courts, to sell it or otherwise dispose of it at his own pleasure. It was necessary for Cuthbert to borrow most of the money to shoulder the burden. It was proved that the money was either his own or was borrowed by him. How much he paid is not sure. His opposing litigants in 1591–92 claimed it was but 30 *l.*, but Hyde himself indicates that it was practically the whole of the 125 *l.*, with interest. The lease was accordingly assigned to Cuthbert Burbage and the purchase completed in his name on June 7, 1589, in the presence of Henry Bett, attorney, and others. Still his father continued to manage the Theatre, and the business went on pretty much as before. But the Theatre itself was Cuthbert's. And just here, with this infusion of blood, begins the history that brought about the Globe, of which Cuthbert Burbage

was a principal owner until his death in 1636, forty-seven years after this fateful venture. It is the accident rather than the essential that makes careers. And by this circumstance, conditions arose which not only shaped the careers of Cuthbert and Richard Burbage, but also made a Shakespeare possible.

Meanwhile, the controversy between widow Brayne and James Burbage raged. By Cuthbert's purchase, he was drawn into it, and then Richard also was made a party to the various suits. On November 4, 1590, the widow had obtained the court's order for a sequestration of the property, granting her the moiety claimed, until the case could be heard. But on the 13th, Cuthbert got that order stayed, and was granted instead the Court's order for both parties to perform the terms of the arbitrament of 1578—which, of course, he knew was impossible for the widow, and amounted in effect to a decision against her. Nevertheless, three days later, November 16, 1590, she and Robert Miles, his son Ralph, and their friend Nicholas Bishop assembled themselves and took a copy of the order to the Theatre to force James Burbage to perform its terms. It was on a play day, just as the people were beginning to come to see the performance. The parties concerned, and others then present, notably John Allen, afterwards related graphic portions of the scene that ensued.

When the invaders arrived in the Theatre yard, James Burbage put his head out of the window, and a lively exchange of epithets followed. Then Burbage came down. He told Miles that that Court order was but a piece of paper fit for base soilure, and called him a knave and a rascal, and named the widow as "murdering whore." She and her supporters were determined none the less to carry out their purpose "to ſtand at the do^{r} that goeth vppe to the galleries of the ſaid Theatre, to take & Receyve for the vſe of the ſaid Margarett, half the money that ſhuld be gyven to come vppe into the ſaid Gallaries at that do^{r}."

By that time, Mrs. Burbage, accompanied by her younger son Richard, then about nineteen or twenty years old, arrived on the scene, and "charged them to go out of her grounde, or elles ſhe wold make her ſone breake ther knaves heades, and ſo hottelie

rayled at them." She and Richard declared in effect to the Brayne contingent "that yf they did tarye to heare the playe as others did, they ſhuld, but to gather any of the money, that was gyven to go vpon, they ſhuld not." The Burbages thereupon, not receiving assent, with violence thrust them from the door, threatening "that yf they dep*ar*ted not from that place, they wold beate them away." "And ſo indede," one of the beaten enemy, Nicholas Bishop, afterwards related, "vpon ſome wordes vttered by the ſaid Robert Myles to the ſaid Burbages wyſſhing them to obey the ſaid Order, the ſaid Ry. Burbage & his mother fell upon the ſaid Robert Myles & beate him w^{t} A broome ſtaffe calling him murdring knave and other vyle and vnhoneſt wordes."

Then Nicholas Bishop put in a word for the widow, whereupon, as he naïvely relates, "the ſaid Ry Burbage ſcornfully & diſdainfully playing w^{t} this depo*nen*^{tes} Noſe, ſayd, that yf he delt in the matter, he wold beate him alſo, and did chalendge the feild of him." A life-size portrait of the future great actor.

About that time, Cuthbert Burbage came home, and with "great & horrible othes" declared he would keep, against any court order, what he had paid for, and hotly threatened them and bade them get hence.

Meanwhile, some of the actors had arrived on the scene. John Alleyn, brother of Edward Alleyn, relates that upon his arrival he "found the foreſaid Ry. Burbage the youngeſt ſone of the ſaid James Burbage there w^{t} a Broome ſtaff in his hand, of whom when this depo^{t} aſked what ſturre was there, he anſwered in laughing phraſe hew they come for A moytie, But q*uo*d he (holding vppe the ſaid broome-ſtaffe) I have, I think deliv*er*ed him A moytie w^{t} this & ſent them packing." Another study for a painter with a proper sense of the situation. And the father said that if his sons would be ruled by him, they would the next time provide pistols loaded with powder and hempseed to shoot them in the legs.

John Alleyn, though only Burbage's servant, as he says, also remonstrated in behalf of the widow, and appealed to conscience. Burbage did not exactly bid conscience be condemned nor tell Alleyn in precise words that

"Thus conscience does make cowards of us all,"

but he said things that meant as much and swore as Alleyn understood, by "God's blood," and other great oaths, "that he cared not for any Contempt, & yf there were xx contempt*es* & as many Iniunccions he wold w^{t}ftand & breake them all before he wold lofe his poffeffion."

Other disturbances were caused by Miles and Margaret Brayne at the Theatre or at the home of the Burbages. James Burbage's own account of this one differs materially from the accounts by his opponents, and lacks the picturesqueness and piquancy they give it.

The above quarrel and John Alleyn's interference in it led to the withdrawal of the Admiral's company from the Theatre, of which John and Edward Alleyn were principal members. Eight days after the trouble, namely, on November 24, 1590, John Alleyn went to the Theatre to have a settlement with Burbage for money due to him and his fellows. His testimony furnishes us the first known evidence that the Admiral's men acted at the Theatre. Burbage refused to pay the amount claimed, and John then "told him that belike he ment to deale w^{t} them, as he did w^{t} the po^{r} wydowe," and threatened that "yf he did, they wold compleyne to ther lorde & M^{r} the lord Admyrall and then," Alleyn continues, "he in a Rage litle Rev*er*encing his hono^{r} & eftate, fayd, by a great othe, that he cared not for iij of the beft lord*es* of them all." This talk, says Alleyn at the close of his second deposition, was in the tiring room of the Theatre, in the presence of James Tunstall and others of the Admiral's men,—who then or soon after quitted the Theatre and went across the Thames to Henslowe's theatres under the management of John and Edward Alleyn.

Within a fortnight after the *mêlée* at the playhouse door, and four days after the tiring-house quarrel with John Alleyn, namely, on November 28, the widow Brayne, backed by Miles, had James Burbage and his sons Cuthbert and Richard arrested for contempt of the Court of Chancery's order, and on January 30 Cuthbert appeared in court to save his bond given thereon to the sheriff of

London. It is around this alleged contempt of November 16, 1590, when the trouble at the theatre door occurred, that the litigation of the parties and numerous court orders and depositions centred for the next two or three years.

In the midst of the Court's long investigation, in the latter part of April, 1593, Margaret Brayne died, before a decision was reached. By her will, dated April 8 and proved May 3, 1593, she left all the property she had to Robert Miles as executor and sole legatee, and said that not even that could repay him. She specifically bequeathed him the moiety she claimed in the Theatre, and, as a matter of course, he fell heir to the litigation that he had already taken so active a hand in for her. Near the close of the same year 1593, Miles accordingly filed a bill of revivor, and carried the case on till May 28, 1595, when the Court of Chancery hung it up by sending him to the Common Law for relief. That practically ended the case, which had no solid foundation in law or equity, and never would have come into court except for Miles's spite against Burbage and his determination to back the widow at all costs. Such a case could have no standing in the Common Law, and consequently Miles appears never to have attempted to introduce it there, even after the Chancery's suggestion to try it.

During the long litigation, great question was made as to costs and profits to Burbage and his late partner Brayne. In July, 1591, Burbage again had the property viewed, by Ellam, Hudson, Clerke, and others, as they testified on February 25, 1592, and it was found by the viewers that he had spent 240*l.* or at least 230*l.* for new buildings and repairs, aside from the Theatre. Besides, between January 1 and February 25, 1592, Burbage or his son Cuthbert, as Hudson and Ellam, the workmen, testified, had spent 30*l.* to 40*l.* in repairs on the Theatre. On September 30, 1591, attorney Henry Bett, of Lincoln's Inn, deposed that he had often seen and copied out the accounts between Burbage and Brayne. Burbage's books showed expenditures of 220*l.* for buildings near the Theatre, 230*l.* for rent and repairs of the Theatre, 220*l.* 13*s.* 4*d.* for bonds, debts, etc., paid since Brayne's death. One half of all these amounts were due to Burbage from

Brayne. Besides, Brayne's estate still owed Burbage 135 *l.* 1 *s.* received by Brayne out of the Theatre, as acknowledged by a note in Brayne's own hand.

Burbage's profits were variously estimated. Robert Miles, in his usual exaggerating fashion, estimated in 1592 that Burbage's half-interest in the Theatre had produced him 2000 *l.* in the preceding eight or nine years. The estimate of Gyles Allen eight years later, in his Court of Requests Answer in 1600, that Burbage had made a profit of 2000 *l.* on the Theatre, is based upon this earlier estimate by Miles, with whom he was bound in a common enmity toward Burbage, and is therefore of no value. Ralph Miles put it at about 100 *l.* a year, and John Alleyn estimated it at 100 *l.* to 200 marks a year. Henry Laneman's statement should be most nearly correct. He was proprietor of the Curtain, and from 1585 to 1592 had half the profits of the Theatre and Curtain, and Burbage, or he and Brayne, had the other half. Laneman says that in that period Burbage had received profits of 100 marks to 80 *l.* a year. And there we may leave it. Even at the most extravagant estimate the profit was modest. Eighty pounds a year then would have purchased about the same necessities of life as 300 *l.* today. For money then, as I find from an extensive search among original records of prices of the time, contrary to the usual exaggerated supposition, would purchase from 3½ to 4 times the same value of necessities as now.

No attempt can be made here to disentangle the complicated relations of the various companies and playhouses to each other. Companies shifted greatly. As already observed, the Admiral's men, headed by John and Edward Alleyn, appear to have withdrawn from the Theatre soon after the events above related. Thereafter, the Burbages and the Alleyns belonged to rival companies. The Alleyns united with Henslowe at the Rose and Newington Butts, where the Admiral's company, Lord Strange's company (called in 1593–94 Lord Derby's), Lord Pembroke's, and Lord Sussex's men are heard of in the course of the next few years.

It was by these companies of the Henslowe-Alleyn régime that some of Shakespeare's early plays were acted. Nor is it yet

known that Shakespeare was associated with the Burbages prior to 1594, when, some time after the death of Lord Strange, Earl of Derby, which fell on April 16, 1594, another reorganization of companies was effected. Thereby Edward Alleyn became permanent head of the Admiral's company, and at the same time certain men of the late Lord Derby's company, namely, William Kempe, Thomas Pope, John Heminges, Augustine Phillipps, and George Bryan, united with Richard Burbage and William Shakespeare in the reorganization or formation of that illustrious permanent company under Lord Hunsdon, known throughout the rest of Elizabeth's reign as the Lord Chamberlain's company and thereafter for the next forty years as the King's players. With this company Shakespeare was associated from 1594 to the close of his dramatic career some twenty years later. The first notice of his connection with it is contained in the official record of payment of 20*l.* by the Treasurer of the Chamber "To Will*ia*m Kempe Will*ia*m Shakeſpeare & Richarde Burbage ſervaunt*es* to the lorde Chamb*er*leyne" for two comedies acted at Court on December 26 and 28, 1594. According to a letter from Lord Hunsdon to the Lord Mayor in their behalf, October 8, 1594, this company was then acting at the Cross Keys in Gracious street, where James Burbage may have had a company in 1579, when he was arrested on his way to a play there, as above noticed. Their principal playhouses after 1594 appear to have been the Theatre and the Curtain up to the close of 1598, when they set about building the Globe. We have the contemporary evidence of John Marston that *Romeo and Juliet* was acted at the Curtain about 1598. The joint management of the Theatre and the Curtain by the Burbages and Henry Laneman from 1585 to 1592 may have been extended in such way that members of the company owned shares. It is known that at least one of them, Thomas Pope, at the date of his death in 1603, still owned one share in the Curtain, and that even as late as 1623, John Underwood, at his death, owned a share in the Curtain.

As the period of Barbage's lease of the Theatre property was drawing to a close, it became necessary for him to provide for the future. The landlord, Gyles Allen, was not disposed to renew

the lease on any equitable terms. The City's authorities had from the first been opposed to theatres. From 1417 onwards, their records are strewn with orders against mummings, disguisings, maskings, interludes, plays, players, and finally theatres, all of which I hope in due course to publish. They had at all times done what they could to expel the companies from their precincts. At the close of 1595, James Burbage provided against opposition of both landlord and City by purchasing for theatrical purposes, at the rather high price of 600 *l.*, a part of an old cloister building in the Blackfriars liberties, almost in the heart of the City, but free from its jurisdiction. The purchase was made probably by Christmas, 1595. The earliest information about Burbage's purchase and his proposed new theatre is contained in a letter from Lord Hunsdon, who was disappointed at not getting a chance at it himself, addressed to Sir William More, the recent owner, under date of January 9, 1596, as published by the present writer in *The Evolution of the English Drama up to Shakespeare.* The deed was signed a month or so later, February 4, 1596. On the back of the counterpart in the *Loseley MSS.*, signed by James Burbage, is the important note that possession was given the same day. Burbage paid only 100 *l.* down. He and his sons Cuthbert and Richard, on the preceding day, February 3, had given their recognizance to George More, son of Sir William, for the other 500 *l.*, which I find was paid off in full on July 23, 1597. Then on July 30, 1596, Burbage mortgaged to Lord Cobham for 28 *l.* a little piece of the property that adjoined Cobham's mansion, and on October 12 of the same year, he mortgaged all the rest of the grounds and buildings to Edward Vaughan for 200 *l.* This was probably to raise money for making the old priory over into a theatre, which he proceeded almost at once to do. The mortgage to Vaughn was paid in full on March 11, 2 James I (1605).

After completing the above transactions in 1596, and only a short time before his death, Burbage took steps to protect his very considerable estate against any possible claims or contingencies that might arise, by making a deed of gift to Cuthbert of all his personal property, and another deed of gift of the Black-

friars to his second son, Richard—a transfer which was made much of in Robert Miles's attack on the estate in 1597, and in Gyles Allen's great suits against Cuthbert and Richard in 1599 to 1602, and which also, forty years later, caused great suits among Burbage's grandchildren, with serious but unsubstantiated charges of fraud against Cuthbert and Richard for depriving their mother and their two sisters, Alice and Eleanor, of their due portions. All these and many other new records on the Blackfriars will be published by the present writer in dealing finally with their relations to dramatic and theatrical history. The brief mention here given them is necessary to the understanding of other matters in hand.

Also by the close of the year 1596, shortly before his death, James Burbage and his son Cuthbert had taken up with Allen the question of renewing the lease on the Theatre. Allen was unwilling, and made many objections and excuses. The elder Burbage frankly told him that if the lease were not renewed, he would remove the Theatre and take advantage of Allen's bond, as one of Allen's own witnesses, John Goborne, testified on May 23, 1600. Finally, after much delay, a draft of a new lease was drawn up for them by Robert Vigerous, of the Middle Temple, who in 1600 testified to the nature of it. It was agreed, he says, that the lease should extend for another ten years (but Cuthbert Burbage, John Goborne and others on both sides say twenty-one years) at the rent of 24*l.* a year, an increase of 10*l.*, and the payment of a disputed claim of 30*l.*, all of which Burbage was willing finally to yield to, rather than lose the desired extension. Various witnesses testified that there was then no proposal to limit the use of the Theatre as a playhouse to only five years of the period, with requirement that it should then be converted into some other use, as Allen later claimed. That lease was never completed. James Burbage was engaged in the negotiations and was likewise just in the midst of making the old Blackfriars cloister building over into the second Blackfriars theatre, the one of famous Shakespearean memory, when, in February, 1597, he died. Then came the burden of both the Theatre and the new Blackfriars upon the shoulders of his sons Cuthbert and Richard.

Almost immediately in 1597 Robert Miles, executor and sole legatee of the late Margaret Brayne, unable to make out a successful case at the Common Law, to which the Court of Chancery had referred him in 1595, brought suit in the Court of Requests against Cuthbert, Richard, and Ellen Burbage, their mother, as administratrix—cunningly joining Gyles Allen with them as co-defendant—claiming a moiety of the Theatre, and charging fraudulent transfer of the estate to the sons to defeat him and other creditors of their dues—a charge made in vain by him and later by others. Miles estimated the value of the goods on which the widow had taken out administration papers to be 1000 *l.*, and claimed that 600 *l.* was due to him—all of which may be passed as unreliable. On May 9, 1597, the Court of Requests ordered that his bill should be compared with his bill of revivor of 1593 that was still hung up in Chancery, with the intention of dismissing it if both dealt with the same matter. But on the 27th of May, Miles's attorney was able to get an order that the case should be retained and the defendants should be required to file their answers. No further records in the case are extant, but it is apparent on the face of it that the suit could not succeed.

With the death of their father, followed two months later, on April 13, 1597, by the expiration of the lease on the Theatre grounds, it grew desperately clear to Cuthbert and Richard Burbage that they must have the question of a permanent playhouse settled if they were to maintain the business that had for over twenty years been the support and income of the family. Cuthbert now took up the interrupted negotiations with Allen, who, with old age and prosperity upon him, was inclined to dictate his own terms, and showed himself of an uncompromising and contentious nature. Allen found new excuses for delay. Cuthbert wanted to extend the lease for another period of twenty-one years, claiming some right under the former arrangement for an extension. Allen, however, demanded the 30 *l.* which he claimed was still due him for arrearages, required the increased rent of 24 *l.* a year, and made other hard conditions. He drew up the draft of a lease, but Cuthbert refused it as unreasonable in its covenants. Finally Allen yielded, on condition that the

Theatre should be used as a playhouse but five of the twenty-one years, and should then be converted into tenements. This slow and partial consent was wrung from him after some two years of conference.

Meanwhile, Allen permitted the continuance of the Theatre by receiving rent therefor in 1597 and 1598. This sort of tenure was precarious. The lessor might on any rent day refuse to accept further payment, and thus close the playhouse. The Burbages were continuing simply under his sufferance, and were at his mercy. Allen himself declares in his Star Chamber suit of 1602, that he had intended to tear the Theatre down and convert its materials to his own use. But he kept this purpose secret, and led the Burbages to believe that he would renew the lease, on the terms above stated. Cuthbert long demurred to the exorbitant terms, but after many conferences finally agreed, even yielding to the heavy condition, related by attorney Vigerous in 1600, of paying a fine or bonus of 100*l.* for the lease. Accordingly, Cuthbert Burbage prepared a lease, engrossed on parchment and provided with wax ready for sealing, which, from the testimony of Vigerous, he appears to have taken to Allen at his home in the country, at Haseley, Essex. Then at the final conference in London in Michaelmas, 1598, a hitch occurred over security.

Cuthbert offered his brother Richard as security for the lease. But Allen "misliked" the notion, and would not accept him. This was only another of Allen's excuses for not granting the lease. Thereupon, the negotiations were broken off, with some heat on both sides. This final conference took place at the George Inn in Shoreditch,[6] near the Theatre (not the George Inn of

[6] There were several George Inns of London at that time. The one in Shoreditch (a long distance from the one built by Brayne and Miles in Whitechapel) stood near the Theatre on or near Gyles Allen's estate, and was the place where he stopped whenever he came to town, year after year, to collect his rents. Various depositions, as by Bett, Gascoyne, Hynde, and James on the one in Whitechapel, and by Baker, Goborne, and Johnson on Allen's frequenting the one in Shoreditch and the conferences there held with the Burbages, suffice to prevent confusing the two. See previous note on the voluminous documents relating further to the one in Whitechapel.

Whitechapel, in which Brayne, Burbage, and Miles were involved), in the presence of Allen's principal witnesses, John Goborne, Henry Johnson, and Thomas Nevill, whom Allen had summoned for the occasion, in Michaelmas term, 1598. "And the Christmas next after," say both Goborne and Johnson, "the faid Theatre was pulled down and Carried away."

Documentary declaration of the plans and purposes of the Burbages during the weeks that intervened between this final conference and the following Christmas is at present lacking. Their acts alone furnish us with evidence, and these we can read with some understanding from the outcome.

After the final conference with Allen, the Burbages had good reason to fear his purposes. Accordingly they decided to anticipate him, and thus save themselves, by tearing the Theatre down and using its materials elsewhere, as they had before warned him they would do. By a provision in the original lease of April 13, 1576, the lessee had the right, upon certain conditions, to remove the building at pleasure. This they now purposed to do. They could at least save the timbers and use them in setting up a new theatre, if a suitable site could be found. They conferred with some of their associates, notably William Shakespeare, John Heminges, Augustine Phillipps, Thomas Pope, and Will Kempe, and arrangements were made whereby definite plans could be carried out. The story of that enterprise is related by the writer in a separate work presenting the complete history of Shakespeare's theatres, the Globe and the Blackfriars—on the basis of new documents, several mentioning Shakespeare in connection with the site of the Globe—with some account of the dramas acted there, up to 1642. It was agreed that they should unite in forming an organization, altogether novel in theatrical affairs, whereby they should constitute themselves into a company not only to act plays, but to build and own a theatre on the basis of what is termed in law a joint-tenancy. The Burbage brothers had the materials of the Theatre and their experience to contribute. They were willing to furnish half the materials, risk half the expense of building anew, and share half the profits, if these their theatrical associates were willing to undertake the

other half. These five were thus joined with the Burbages in the new venture. It was a rare combination, consisting of the greatest dramatist, the best actors, and the most experienced managers of the time. Neither the Burbages nor their associates can have had much ready money by them, both from the circumstances of the partnership and from the statement of the Burbage family thirty-five years later, that they had to take up the money at interest, which lay heavy upon them for many years.

The young company was fortunate in finding a site for their new building. Southwark was the common resort for sports. There bear-baiting, bull-baiting, and other diversions had long been practised. It had become a popular theatrical centre since the building of the Rose there in 1587 by Henslowe, and the Swan in 1594–5 by Langley. On the Bankside just north of Maiden lane, on the same side of the street as the Rose and within stone's throw to the east of the Rose, lay a waste piece of ground, formerly used as a lay-stall or dumping ground, and this they fixed upon. It had two little old two-room shacks on it. The owner was Sir Nicholas Brend, who was living in the parish of St. Mary Aldermanbury, where both Heminges and young Coudell were living, within a few doors of Shakespeare's residence at the corner of Monkwell and Silver streets. As everybody knew everybody else in the little parish, we may be sure that Heminges and Shakespeare were acquainted with the lawyer and large landowner, who, being a fellow after his own heart and head, and having accordingly married to suit himself secretly and contrary to his father's wishes, had at first been disinherited but had finally, by the death of the elder Brend a few months before, just come into possession of a large inheritance. Brend was a member of the Inner Temple, and was most likely present at the Grays Inn performance of *The Comedy of Errors* by the Burbage-Shakespeare company, December 28, 1594, as one of the Templarians, who were invited and present in large numbers.

The uninviting lay-stall in Southwark, which had only location to recommend it, was a part of Sir Nicholas Brend's new possessions, and it is quite likely that his near neighbors, Heminges and Shakespeare, or one of them, opened negotiations with him

for the company. He wanted 14*l.* 10*s.* a year for it—only 10*s.* more than the original rent of the grounds on which the Theatre had been built. So they struck a bargain, and Brend agreed to lease the grounds to the company for twenty-one years, with term to begin on Christmas day, 1598. This arrangement must have been very near Christmas time, for the company at once took possession, although the lease was not made out and signed until after the holidays, February 21, 1599.

Having decided to remove the Theatre, and having fixed upon a site for rebuilding it, the company acted quickly. The holiday season, when everybody was making merry, was opportune, for they would less likely be interfered with by the land-owner. Accordingly the Burbages, having employed Peter Street as their superintending carpenter, proceeded with ten or twelve other men on December 28, three days after the beginning of their lease on the new site, to wreck the Theatre. These were all carpenters and laborers, enough to do the work with speed. We are not told whether Shakespeare and the rest were present. Probably they were, for the occasion was important, and promised some excitement. It is not likely that their playing before the Queen two nights before, and their preparation of another Court performance for New Year's night kept them away. Even Mrs. Burbage, mother of Cuthbert and Richard, was there as an interested spectator, and a considerable crowd assembled.

The land owner, Gyles Allen, came to town but occasionally from his fine country estate, the manor of Haseley, Essex. But he clearly expected some such action by the Burbages, and so had left a power of attorney with John Goborne, one of his tenants near the Theatre, to stop any action they might take. This representative and Henry Johnson, who likewise acted for Allen, at once hastened to the scene of operations and ordered them to stop. Perhaps the Burbage faction used a little finesse if not indirection with them, or perhaps Goborne and Johnson used a little indirection afterwards in their depositions, for they claimed that the men in charge explained that they meant only to take the present building down and set it up again on the same grounds—which is manifestly untrue, for both Goborne and Johnson knew person-

ally, as we have seen, that the Burbages had no further lease on those grounds. So the work went ahead, and in a short time they had removed all the timbers across the Thames to the new site just north of Maiden lane in Southwark, thus anticipating Allen in his own purpose to tear the Theatre down and use its materials, who in the Court of Requests suit of 1600 claimed that they took advantage of his absence from town to accomplish their sudden and secret purposes. The whole proceeding was almost as sudden and precipitate and complete as the work of a band of Hallowe'en pixies, and was probably entered into with a similar sense of humor pervading their more serious determination.

Then followed great suits at law and equity. Giles Allen immediately in the following term, Hilary, 1599, began a suit, first recorded in Easter following, in the Queen's Bench, nominally against Peter Street, the head carpenter, but in fact against the Burbages, in the course of which the unexecuted lease of 1585, incorporating substantially the original lease of 1576, is quoted verbatim, and the history of the tenure of the property is related from 1576 to 1599. Allen estimated the value of the Theatre at 700 *l.*, and claimed also 800 *l.* damages.

In the following January, 1600, Cuthbert Burbage brought suit for relief in the Court of Requests, and that Court stopped Allen's proceedings in the Queen's Bench, first by an injunction, April 10, 1600, and finally by decree of October 18, 1600. It was a tremendous suit. The pleadings found by Halliwell-Phillips, and particularly the voluminous depositions unearthed by me and now first printed, furnish a gray background for the history of the new Globe and the Shakespearean drama. Allen lost his case, and by the final decree of October 18, 1600, was forbidden ever again to bring suit on the tearing down of the Theatre.

Still Allen persisted. He was of a prominent family, brother of the former Lord Mayor of London, and was not to be beaten. Proud, wealthy, defiant, angered at the outcome, and humiliated by Cuthbert Burbage's having him arrested for contempt of Court during the preceding suit, thus disgracing him in Essex, and binding him over in a bond of 200 *l.*, Allen then almost immediately after the adverse decision, in the next term, Hilary,

1601, sued Cuthbert in the Queen's Bench on the same matter under the subterfuge of breach of agreement. This, too, could not but fail.

Allen had a further grudge to square, because William Smith, of Waltham Cross, who had testified in favor of the Burbages in the Requests suit, was, as he claimed, the real prosecutor against him, and had furnished Burbage all the money for carrying on the litigation. Still determined on his course of annoyance and possible ruin to the new Globe and the Burbage-Shakespeare company there, Allen next brought suit in the Star Chamber, still on the same matter, but under the shifted charges of riot, perjury, etc. That it likewise failed is sufficiently indicated by Sir Francis Bacon's opinion upon it, referred to in the demurrer of Hudson and Osborne, June 12, 1602. His charge that Cuthbert and Richard Burbage had threatened to stab some of his witnesses for testifying in the Requests suit and that by such intimidation he lost that suit, may be taken to be as devoid of fact as his charges of riot, perjury, suborning of witnesses, and forgery of a court record prove to be. The final decree in Star Chamber is lost. This ended Allen's litigation, and finally closed the long and turbulent history of the first London theatre.[7]

Just prior to its demolition, the Theatre was not only a bone of contention between lessor and lessee, but was also under ban of the Queen, according to the well-known order of the Privy Council, 28 July, 1597, requiring that it and the Curtain should "be plucked down." It is noteworthy that this order, unexecuted by the City authorities, to whom it was directed, is the last known notice concerning the Theatre in connection with plays there. The Theatre was closed but not yet torn down when *Skialetheia*

[7] Several other suits involving Giles Allen, the Earl of Rutland, Cuthbert Burbage, Francis Langley, and others, in the Court of Exchequer, Court of Wards, Star Chamber, etc., relate *inter alia* to certain property held by Cuthbert in 1597 and later, but they have no bearing upon the Theatre, besides mere location, as presented for example in the depositions of Mary Hobblethwait, Leonard Jackson, John Rowse, etc., extracts from which may be seen in Halliwell-Phillips, *Outlines,* I, 352–53. Those of any importance on the subject will find their due place in the final presentation.

was entered on the Stationer's Register for publication, September 15, 1598, and is there mentioned thus:

> ". . . . . but see yonder
> One, like the unfrequented Theatre,
> Walks in dark silence and vast solitude."

Moreover, as already mentioned, according to John Marston's *Scourge of Villainy,* Satire XI, entered September 8, 1598, a week earlier than *Skialetheia,* the Burbage-Shakespeare company was about that time acting *Romeo and Juliet,* not at the Theatre, but at the Curtain, which likewise had not been "plucked down' according to order. Here the company probably remained until the completion of the Globe, about the following May, 1599, according to a record I have found mentioning it, in connection with Shakespeare, as "de novo edificata."

The important new state of affairs, whereby Cuthbert and Richard Burbage on the one side and Shakespeare, Heminges, Phillipps, Pope, and Kempe on the other were formed into a company that should endure to the end of their lives, swinging the drama during the next fifteen years into the highest prominence ever attained in the world, and opening up a history that will be read with interest to the end of time, claims our full attention in certain other works on Shakespeare and his theatre, to which the present collection of records forms the gray background. Had the Brayne-Miles contention succeeded, the new company would not have come into being, and if Allen's legal onslaughts on the Burbages had not failed, their company must have suffered great danger if not ruin.

The changed tone of the dramatic products of Shakespeare and his associated actors fairly synchronizes with the business difficulties in their new enterprise—the wasteful, vicious suits of Allen, the almost immediate withdrawal of Kempe in 1599, the restrictions upon their acting, the successful rivalry of the children actors under the Queen's patronage, the Essex conspiracy of 1601 in which they were involved, and death that took off two of their number, in 1603 and 1605. The thought of possible disruption of a life-enterprise could not have been the least of cares that

weighed upon Shakespeare and his fellows. The ominous note struck that shuddered through their lives, and the sharp heel of tragedy trod loud across the boards of the Globe. Not less than the rest but more sensitively, perhaps, did Shakespeare feel it, and he recorded the common tragic sense that was upon them all in the very themes chosen for enactment. Prior to the Globe enterprise, his plays had been on the sunnier side. *Henry V,* the first new play at the Globe, was the last clear note of untrammeled life for many years. Then came the treachery and misguided statesmanship in *Julius Caesar,* the vanquishing of idealism in the play of *Hamlet,* and the whole series of tragic interruptions of noble aspirations in the plays that range down the years to those more placid days when, about 1608–9, doubt and discord and threatened disaster were safely weathered. The following documents, aside from the history they hold, show in this regard some of the mere business conditions that made Shakespeare possible, and some of the difficulties that wrought in him supreme achievement.

The materials for a history of the Shakespearean theatre and drama grow apace. After the labors of Malone, Chalmers, Collier, and Halliwell-Phillips in their life-long searches for documentary evidences, it was gradually thought that the end was reached. The field long lay almost fallow, until about ten years ago, when the present writer took it up, with the result that vast new sources have been opened that enrich dramatic and theatrical history. Today no department of research is looked to with larger expectations. By the encouragement of the better sort, in spite of annoyances from a narrow circle, the scholar's dream of bringing all these materials into a complete corpus may be realized. I am glad to be the inspirer of scholarly research, and have given help freely to many worthy students, whose work I heartily welcome. But my researches have unfortunately attracted also another sort, an envious few, who find out by one means or another what records I have examined or am having prepared for examination, and then proceed to "discover" a document here and there for hasty publication. Such but hinder scholarship, divide and confuse the public. It is easy for them to "leaf"

through a set of records when once the way is pointed out either publicly or privately.

It is but fair, therefore, to other scholars as well as to myself to say that the field I have opened is now fairly worked out. There remain, of course, innumerable details to complete, and the slow process of correlating and presenting the materials in permanent and useful form. On a conservative estimate, approximately three million records have been searched under my direction, in public, private, and municipal archives. Most of these had not previously been examined. I have reasons to believe that I have now reached all documents of first importance in the public archives and among the London City records for the Tudor-Stuart period of stage-history. The more varied and interesting field of private, provincial, and continental archives, which should yield valuable results, invites earnest students, to whom I shall be glad to give help and encouragement. This announcement of the state of research will prevent any duplication of results by others, and should enable any investigator to choose a line of direction that will not lead him into conflict with work thus done and now preparing for publication. I shall be pleased to give information to any scholar who is engaged in a serious piece of work contributive to knowledge in this department of research.

The present collection of records on the Theatre is a fair example of some of the materials gathered for publication on other Shakespearean theatres, as the Globe, Blackfriars, Whitefriars, Swan, Fortune, Hope, Red Bull, Cockpit, Salisbury Court, etc. Others already published by the present writer, relating to theatres, dramatists, etc., may be seen in *University Studies* for 1905, on *Shakespeare;* 1908, on *The Children of the Chapel at Blackfriars 1597–1603;* 1909, *Three London Theatres of Shakespeare's Time* (twenty-eight documents on Red Bull, Fortune, and Bear Garden); 1910–11, *Shakespeare and his London Associates* (fifty-six documents). Others may be seen in *Globe Theatre Apparel,* Taylor *v.* Heminges (privately printed, August, 1909); *The Times,* London, October 2 and 4, 1909, on *Shakespeare and the Globe* (the Ostler-Heminges documents); *The*

Times, March 28, 1913, *A London Pageant of Shakespeare's Time* (with Burbage and Rice as speakers and Anthony Munday as author, from the City archives); *Harper's Magazine,* March, 1910, on a signed deposition by Shakespeare, and his life in London; *Century Magazine,* August and September, 1910, on Shakespeare's Globe and Blackfriars; *Shakespeare-Jahrbuch,* 1910, on Gervase Markham, Dramatist, and thirty-nine defendants, chiefly actors; *Keyzar v. Burbage* (privately printed, 1910); *Englische Studien,* 1911, on the Swan, Jonson, Nash, etc. (with bibliography of documents published from the Court of Requests, p. 344); and especially *The Evolution of the English Drama up to Shakespeare,* a volume dealing with over 500 records (Berlin, 1912).

The principal documents in the present collection are the voluminous depositions, which bring us into intimate touch with the people and events they deal with in connection with the Theatre. These were discovered by the writer and his devoted wife a few years ago in the course of a complete search of the proceedings of the Court of Requests, and the equally unknown Town Depositions of Chancery. The uncalendared records of these two enormous classes for the period of my research, in the reigns of Elizabeth, James I, and Charles I, had not before been examined since they were filed away three centuries ago, and were prepared for inspection at my request. Such materials as they contain in any way elucidating the history of the drama and stage, and of dramatists and actors, I now have and shall in due course publish, as soon as the task can be completed of bringing together the results with all related matters from various other original sources in a permanently useful form. The complete series of documents arising out of the trouble in different courts over the two events of building the Theatre in 1576 and of tearing it down in 1598 here follow.

CHRONOLOGICAL ARRANGEMENT OF DOCUMENTS

[The documents are printed in the following chronological order. None have previously been published in extenso, with the exception of five court orders printed by Collier. Documents hitherto known are indicated in head-notes or foot-notes. Those belonging to the present writer's

researches are here marked with an asterisk (*). The total list comprises ninety-nine documents, some of them grouped in sets, according as the originals are fastened together or separate. With reference to other documents, see *Introductory Survey*.]

PAGE

*1588, Burbage *v.* Braine, Chancery, Bill and Answer, on agreements between Burbage and Braine, concerning the Theatre..... 39
*1588–9, Feb. 17, Court order referring bill and insufficient demurrer to Dr. Carew..... 46
*1590, May 21, Court order referring case to Dr. Caesar; head-note on cross-bill..... 46
*1590, Nov. 4, Court order on sequestration of the Theatre.. 47
*1590, Nov. 13, Court order to stay sequestration and fulfil abitrament 48
*1590, Nov. 28, Robert Miles's affidavit, on contempt by the Burbages 49
*1590–91, Jan. 30, Personal appearance of Cuthbert Burbage on bond 49
*1590, Dec. 8, Brayne *v.* Burbage. Depositions ex parte Burbage by John Hyde and George Clough..... 50
*1590–91, Feb. 16, Brayne *v.* Burbage. Depositions by James and Cuthbert Burbage on charge of Contempt..... 57
1590–91, March 23, Brayne *v.* Burbage. Court order, referring above depositions on Contempt to Dr. Caesar.. 64
1591, April 24, Burbage *v.* Brayne. Defendant's demurrer referred to Dr. Carew..... 64
*1591, June 15, Burbage *v.* Brayne. Widow's demurrer referred to Dr. Carew..... 65
1591, July 20, Brayne *v.* Burbage. Court order transferring consideration of depositions on contempt from Dr. Caesar to Dr. Hone..... 66
*1591, October 12, Brayne *v.* Burbage. Hone reported; case now referred to Dr. Legg and Dr. Stanhope..... 66
*1591, Nov. 13, Brayne *v.* Burbage. Dr. Legg and Dr. Stanhope report they must examine John Hyde and Ralph Miles on the Cause, and Nicholas Bishop and John

Allein on the contempt. Whole case re-referred to Legg and Stanhope, to try out in full. Hence case in their hands and they examined many witnesses..... 67
*1591, Sept. 30, to 1592, Feb. 25, Brayne *v.* Burbage. Depositions ex parte Burbage by Henry Bett, Gyles Allen, Brian Ellam, Richard Hudson, William Clerke..... 68
*1591, Sept. 30, to 1592, July 24, Burbage *v.* Brayne. Depositions ex parte Burbage by Henry Bett, Ellen Gascoyn, John Hynde, William James..... 78
*1592, Jan. 29, to Feb. 12, Brayne *v.* Burbage. Depositions ex parte Brayne by Nicholas Bishop, John Alleyn, Ralph Miles, John Hyde 92
*1592, Feb. 21, to May 6, Brayne *v.* Burbage. Depositions in cross-examination ex parte Burbage by John Hyde, Nicholas Bishop, Ralph Miles, John Alleyn..... 109
*1592, July 29, Brayne *v.* Burbage. Depositions ex parte Brayne by John Griggs, Edward Collyns, Robert Miles, Henry Laneman, William Nicoll..... 127
*1593, April, Will of Margaret Brayne..... 153
*1593–4, Feb. 11, Miles *v.* Burbage. Court order referring to the death of Margaret Brayne, and allowing a Bill of Revivor by Miles, her executor..... 155
*1594–5, March 14, Burbage *v.* Miles and Miles *v.* Burbage. Court order to hear case..... 155
1595, May 28, Miles *v.* Burbage. Decree referring the case to the Common Law..... 156
*1597, Miles *v.* Burbage. Court of Requests, Bill of Complaint attacking the Burbage estate..... 158
*1597, May 9, order by Court of Requests to compare Miles's bill with his former bill in Chancery..... 162
*1597, May 27, order retaining Miles's bill in Requests, and requiring the defendants to answer..... 163
1599–1600, Allen *v.* Street, Coram Rege, containing proposed lease of Theatre of 1585 and incorporating substance of lease of 1576..... 163
1600, Jan. 26 to April 27, Burbage *v.* Allen, Court of Requests Proceedings, Bill, Answer, and Replication.

Suit for relief in equity against Allen, re-stating the history 181
*1600, April 10, Court order; injunction against Allen to stay his proceedings in the Queen's Bench against Peter Street 205
*1600, April 22, Court order, on injunction, examination of witnesses, and the hearing of the cause..... 205
*1600, April 26, Depositions ex parte Allen, by Philip Baker, John Goborne, Henry Johnson..... 206
*1600, May 15, Depositions ex parte Burbage, by Richard Hudson, Thomas Bromfield, Thomas Osborne, William Furnis, William Smythe, Randolph May, Oliver Tilt 223
*1600, May 23, Depositions in Burbage's cross-examination of Allen's witnesses, Henry Johnson and John Goborne 243
*1600, June 2, Affidavit of Allen as to additional witnesses.. 251
*1600, June 11, Affidavit of Cuthbert Burbage that Allen has broken court order of May 31, by causing the Common Law suit against Street to be joined up..... 252
*1600, June 11, Order of Sir Julius Caesar, Master in Requests, for arrest of Allen..... 252
1600, August 14, Country depositions at Kelvedon, Essex, ex parte Allen by Robert Vigerous and Thomas Neville 253
*1600, Oct. 1, Depositions ex parte Allen by Robert Miles and Ralph Miles..... 259
*1600, Oct. 9, Appearance of Allen..... 266
1601, Jan.–Feb., to 1602, summer. Allen *v.* Burbage, Court of Queen's Bench, on breach of agreement, recounting much of the history of the Theatre, with part of lease of 1576..... 267
1602, Allen *v.* Burbage and others, Court of Star Chamber, Bill, and three Answers, on tearing down the Theatre, &c. 275
*1602, Allen *v.* Burbage and others, Court of Star Chamber, examination of Richard Lane, deputy register of

the Court of Requests, on the previous suit of 1600 in Requests 290

[Note.—In printing the documents, signs of contraction are expanded into italics. Where no sign of contraction occurs, the shortened form is retained, except in the case of Latin documents, which are expanded in full, the Roman type showing in all cases what letters stood in the original. There is, therefore, no uniformity in spellings or expansions. The transcripts have been carefully proof-read against the originals before putting them into type, and the correction of the printed proofs has been generously carried through by the Editor of the *Studies,* during my absence in Europe. The object has been to be faithful to the originals in word and letter, and thus to make this publication of the documents of lasting value.]

BURBAGE V. BRAYNE

Chancery Proceedings, Series II, 222/83.

[Bill and Demurrer. Date at upper left-hand corner of Bill all decayed away, except the final "8" and the right edge of the "8" just before it, giving the date as 1588. As the first order of the Court was in Hilary (February 17), 1588–9, the suit was filed in the preceding term of Michaelmas, 1588.

The entire left third of the Bill and the left half of the Demurrer rotted away. Officially repaired at my request, 1908. (See further, note at close of Demurrer.) Bill originally about 22 inches wide and 17 inches long; Demurrer originally about 15 × 9.

In the following transcript, the first number inserted within the brackets indicates the line; the second number, the approximate number of inches missing at the beginning of that line.]

BILL

[158]8

To the right Honorable Sr Xpofer Hatton Knight Lord Chancellor of England

[Humblie complaining ſheweth] to yor good Lordſhipp James Burbedge of [Hallywell] in [Shordiche Crypple gate London] gentleman Cutbert Rychard Alce and Ellen Burbedge the Children of the ſaid James and Ellen his wief That wher yor ſaid Orator [James Burbage was poſſeſſed of a leaſe granted by]

one Giles Allen gent in or about the xviij yere of the Reigne of the Queenes moſt Excellent Matie that now ys of and in certaine decayed Barnes vacant ground and garden plott*es* ſcituat & [being in Hallywell in Shordiche aforeſaid for a] terme of Certeyn yeres yet [to endure] for [a yearly] rent of xiv^{li} to be quarterly paied and in the ſaid Leaſe did promyſe and Coven*a*nte to and wth the ſaid Giles Allen to build in & vpon the demiſed [premiſſes 4—3] buildings for Tenement*es* to be errected vpon the premiſſes the ſome of two hundrethe pound*es* and the ſame to be done and fyniſhed by a certain tyme [5—9] for the Accompliſhm^{t} wherof the ſaid James yor ſaid Orator was conſtrayned to borrowe dyvers ſomes of monye and to impawne his ſaid [leaſe 6—8] buildinge and erectinge of a plaie howſe or Theatre & other the buildings for Tenement*es* as is aforeſaid. The wch one John Brayne Late of White [Chappel 7—9] he practiſed to obteyne ſome intereſt therin, preſumynge that he might eaſelie compaſe the ſame by reaſon that he was naturall brother [to your ſaid Orators wife 8—9] diuers ſomes of monye) he made meanes to yor ſaid Orator James Burbedge, that he might haue the Moietie of the aboue named Theatre & [9—9] that in conſidera*ci*on therof he would not only beare and paie haluf the chardg*es* of the ſaid buildinge*s* then beſtoed & therafter to be beſtoed [10—9] yor Orato^{rs} aforſaid her Children ſhuld haue the ſame Moietie ſo to him to be conveyed and aſſured, making ſemblaunce that his induſtrie was [11—9] childr*en* of his ſiſter as is aforſaid/ Whervpon yor ſaid Orator James Burbedge did become bound to the ſaid Braine in 400^{li} [12—9] effect That yor ſaid Orator ſhuld at the requeſt of the ſaid John Braine his executo^{rs} or aſſignes convey to him the ſaid John Braine his [executors or aſſigns 13—9] to be errected vpon the p*re*miſſes demyſed by the ſaid Giles Allen to yor ſaid Orator/ wth ſutch Coven*a*nte*s* and warranties as yor Orator might [14—9] Leaſe made by the ſaid Giles Allen was then or therafter ſhuld be chardged wth by any acte then done or therafter to be done by yor [ſaid Orator 15—9] monye borrowed by yor ſaid Orator as by the ſame obligac*i*on and condic*i*on more at Lardge yt doth and may appere./ And after the [16—9] amountinge vnto exceedinge chardg*es* about the ſaid

buildinge*s* then of habilletie to ſupport the ſame and havinge gotten yor ſaid Orator to be bound [17—9] to redeeme the ſaid Leaſe nor had wherwth to p*ro*cied in thoſe manner of buildinge*s* wherein he had procured yor Orator to enter into [18—9] chardge any ſomes of monye growen due for the ſaid buildinge*s* nor paie the Moietie of the rent aforſaid but wth yor Orato^{rs} monye the profitte*s* [19—9] welth of the ſaid Brayne before, beinge conferred and weyed wth the coſte*s* vpon the ſaid Inn by him beſtoed after yt manyfeſtlie appered And [20—8] and fyniſhinge of the ſaid buildinge*s* to his gret hinderaunce as is well to be proved. And after for that yor ſaid Orator James Burbedge had no bond [21—8] ſoe by him to be receved out of the p*re*miſſes from thenfforthe vpon the ſaid buildinge*s* & maintena*n*ce therof he the ſaid Brayn and the ſaid James Burbedge yor [ſaid Orator 22—7] Arbitrem^{t} of certaine Arbitrato^{rs} who thervpon according to the^{r} ſaid ſubmiſſion did delyver vp An Award or Arbitrem^{t} in wrighting, dated about the [xxth] yere [23—7] John Braine ſhuld not be compriſed wthin the compaſe of the ſaid Arbitrement but that aſwell by force therof as by vertue of the ſaid Arbitrem^{t} yor ſaid Orator [24—7] Theatre and buildinge*s* and of the Moietie of the profitte*s* therof whenſoeuer the ſaid Braines would dema*u*nd the ſame wth ſutch exceptione of Acte*s* as is aforſaid [25—7 with] wch Arbitrem^{t} yor ſaid Orator did content himſealf and did p*er*mitt and ſuffer the ſaid John Braine to receve the moietie of the p*ro*fitte*s* of the ſaid Theatre and [26—7] one his p*ar*te. But the ſaid John Braine being a verie ſubtell p*er*ſone and confederating him ſealfe wth one Rob*er*t Myles of Lond*o*n Gouldſmithe Tomſone of [27—7] thei might impoueriſhe yor ſaid Orato^{r} and to depryve him of his intereſt and tearme for yeres in the ſaid Theatre and buildinge*s* and to bring him into the daunger [28—7] ſame he the ſaid Braine not meaning to gyve the ſaid Moietie nor his intereſt therin to yor ſaid Orato^{rs} the Children aforſaid nor the Leaſe of the ſaid Geordge [29—6] the Moietie of the p*ro*fitte*s* of the p*re*miſſes as is aforſaid the wch p*ro*miſe was made aſwell before as after the ſaid Arbitrem^{t} made as is aforſaid. but practiſing to depryve [30—6] againe made a deed of gift to the ſaid Tomſon and therby did gyve and graunt to him all his

goode*s* & chattels wherof he was then or therafter ſhuld be poſſeſſed. wherby yor [31—6] for the Recoverie of the bond of 200^{li} to hym forfeited by the ſaid Braine for the not p*er*formynge of the ſaid Arbitrem^{t} nor to levie the ſame out of his goode*s* & chattells [32—6] againſt the bodie of the ſaid Braine for the ſame the wch during his lief he was Loathe to do for that he was his brother in Lawe as is aforſaide. The benefitt [33—6] the ſaid Tomſone, the ſaid Braine for the mayntena*n*ce of his ſaid frawde & devic*es* p*ro*cured the executo^{rs} or adminiſtrato^{rs} of the ſaid Tomſone to conveye to the ſaid Rob*er*t [34—6] ſo graunted to the ſaid Tomſone by the ſaid Braine wth the Leaſe of the ſaid Inn called the Geordg alſo at his owen deathe or not longe before he fearinge [35—6] ample conveyaunce of all his goode*s* & Chattells wch he then had to the ſaid John Gardiner & to others to the intent that he or thei by force therof ſhuld or might enter into [36—6] or other the p*re*miſſes or that the ſaid Myles by vertue of the ſame deed of gift made to the ſaid Tomſone ſhuld challendge or dem*a*unde the ſame or to incurr the daunger [37—6] in the tyme of his ſicknes & not longe before his death p*ro*miſed confeſſed and agreed wth yor ſaid Orator James Burbedge and his ſaid wief in the p*re*f*e*nce [38—6] of the ſaid Myles That aſwell the Moietie of the p*re*miſſes and all matters whatſoever concerning the ſaid Theatre and buildinge*s* and his moietie therin to be aſſured & [39—6] had receved of & by the p*re*miſſes as namelie the Leaſe of the George in Whitechappell were and ſhuld be and remaine yf he died (for that he had no children and for [40—6] p*re*miſſes) to yor Orato^{rs} the Children aforſaid whoſe advauncem^{t} he then ſeemed gretlie to tender And further p*ro*miſed to yor ſaid Orato^{r} that his ſaid bonde*s* ſhuld be [41—6] of yor ſaid Orator James Burbedge. And after the ſaid John Braine died in A° 1586. by meanes wherof Now So yt ys yf it may pleaſe yor Honor the [42—6] adminiſtrac*i*on of the goods of her ſaid Late huſband the wch ſhe practiſed then to haue) by the ſaid John Gardener and Rob*er*t Myles by reaſone y^{t} thei claymed the ſame goode*s* & chattells [43—6] conveyaunc*es*) vnder the cullor of a will ſuppoſed to be made by the ſaid Braine longe before the ſaid conveyaunc*es* ſo made to the ſaid gardin*er*

and Tomſon, the wch is ſuppoſed to be raſed [44—6] that any ſutch will ſhuld be maynteyned or p*ro*duced. yet by vertue therof and being therin no*min*ated to be executo^{r} to her ſaid huſband/ ſhe now as executor goethe about to arreſt yor ſaid [45—6] p*re*tending that he did not p*er*forme the ſaid Arbitrem^{t} (as in truthe he did) and for the ſaid bond of 400^{li} p*re*tending that yor Orato^{r} hath alſo forfeited the ſame as in truthe he hath not. And [47—6] ſaid huſband denying that her ſaid huſband made any ſutch p*ro*miſſes as is aforſaid ether for the cancelling or conveying of the p*re*miſſes to yor orators aforſaid And the ſaid Rob*er*t Myles by [48—6] then to ſue yor ſaid Orato^{r} James burbedge for the ſaid bond*es* but hath entered into and vpon the ſaid Theatre & building*es* & troublethe yor Orators & his ten*an*te*s* in the^{r} peaceable poſſeſſio*n* [49—6] bothe the yſſues & p*ro*fitte*s* therof by vertue of the Conveyaunc*es* made to him therof. And the Adminiſtrato^{rs} of the ſaid John Gardener who deceaſed in A° 1587 to who*m* the ſaid bond [50—6] made to the ſaid Gardener dem*a*unde & go about to ſue yor ſaid Orato^{r} James burbedge for the ſaid two ſeuerall bond*es*. And amongeſt them by reaſone of multiplicitie of [51—6] ther conveyaunc*es*, & ſomtyme denying the ſame to be good) thei do all ioyne together to impriſone yor ſaid Orato^{r} James burbedge therby to enforce him to yeld to ther requeſt*es* And [52—6] impertinent accions only to p*ro*cure him to gret chardg*es* & to his impoveriſhem^{t} for euer, the rather becauſe by thes devic*es* he can not haue the ſaid 200^{li} due to him by the ſaid [53—7] Braine. In tender conſideraci*o*ne of the premiſſes And for that the ſaid Margarett Braine Rob*er*t Myles and Gardiner the Adminiſtrato^{r} of the ſaid John Gardn*er* [54—7] ſaid Leaſe ſo being mortgaged & forfeited as is aforſaid and haue the ſaid Leaſe to them reconveyed, do now dem*a*unde the ſame moietie & will not p*er*mitt the Children aforſaid [55—7] all the ſaid p*ro*miſſes the wch now yor ſaid Orato^{rs} are vnhable to do by reaſone that the ſame p*ro*miſſes were done in ſecrett & in the p*re*ſence only of the ſaid Rob*er*t [56—7] or gone beyond the ſeas ſo that yor Orato^{rs} can not haue ther Teſtemonye in the p*re*miſſes by wch meanes yor ſaid Orato^{r} James Burbedge is wthout [57—7]

the ſaid bond*es* or to enforce the*m* to cancell the ſame nor the childre*n* aforſaid by the ordinarie courſe of the commo*n* Lawe aforſaid can not procure the [58—7] the p*re*miſſes ſo p*ro*miſed to the*m* by the ſaid John Braine. the wch to do the ſaid Braine was bound in conſcienc to ſoe p*er*formed and that the ſaid bond*es* ſhuld [59—7] done by the ſaide John Braine & by yor ſaid Orato^{r} James burbedge ioynctlie in contradiction of the matters conteyned in the ſaid bond & Arbitrem^{t} ſo [60—7] not be p*er*formed yf thei or any of them had lawfull intereſt therin/ as thei haue not. May it therfor pleaſe yor Honor to graunt to yor ſaid [61—7] directed to the ſaid Margarett Braine Rob*er*t Myles & Gardener commaunding them and everie of the*m* p*er*ſonallie to appere in the Court of Chancerie [62—6] then and ther to make aunſwer to the p*re*miſſes And further to command the ſaid Margaret Braine Rob*er*t Myles & Gardener to [63—7] other the^{r} ſaid Conveyaunc*es* ſo to them made only to p*er*turbe yor ſaid Orators as is aforſaid, to the end the ſame may be then [64—7] and abide ſuch further order as to yor honor ſhalbe thought to agree wth equitie & conſcienc. And all yor ſaid [65—7] in all felicetie.

ffraunc*es* Morgan [attorney]

ANSWER AND DEMURRER

[Date and whole left half of
this skin mouldered away]

[The Joint and ſeveral aunſwere & demurrer of]
M*ar*garet Brayne wydowe and Robt [Myles twoe of the defendantes to the Bill of] Complainte of James Burbeidge and other [ ]

[1—7] the ſaid Bill of Complainte is very vntrue and inſufficyent in the [2—7] contryued of ſet purpoſe to put the ſaid def^{tes} to wrongffull [3—7] that he the ſaid Complayn*a*nt might ſhadowe his bad and vnconfc*i*onable [4—7] defend^{tes} ſhalbe Compelled to make any ffurther Aunſwere to [5—7] and inſufficyency therof nowe and at all tymes [6—7] ſaieth that the ſaid Compl^{tes} in ther

tedious and vntrue bill do [7—6] ſaid Gyles Allen vnto the ſaid Complaynantes neither what [8—6] vnto the ſaid Complayantes as in the ſaid Bill is alſo ſet downe [9—6] Certaine date or tyme of any ſuch bonde wherein he and [10—6] hundreth poundes to abyed a Certaine awarde and arbitrament [11—6] when they yeelded vpp any ſuch arbitrament. And ffurther ſetteth [12—6] wth this def^{t} Robert Myles, and John gardyner who is not nowe [13—6] neither doth the ſaid Comp^{l} ſet fforth any ſufficyent Conſideracion [14—6] of the ſaid leaſſes in the ſaid Bill mencyoned vpon the Children of the [15—6] The ſaid Margaret Braine the other defendant beinge his wief wthout [16—6] and divers other in the ſaid Bill mencyoned over tedyous to be Recyted. The [17—6] of this honorable Courte yf they or either of them ſhalbe Compelled [18—6] ſufficyent bill. And for the inſufficiency therof thei pray to be diſmyſſed owt of this honorable Courte [19—6] wrongfully ſuſteyned

Scott [attorney]

[The preceding Bill and Demurrer, in a badly damaged state, were discovered by me among the Chancery Proceedings at the Public Record Office in the summer of 1908, and on August 7, while still registered as "kept out" on my name, they were sent to the official in charge of the Repairing department. Before they got back to me, about a fortnight later, a Mrs. Stopes learned of their existence, and applied for them. (The dates of these events, I may say, are recorded in the official registers of the Public Record Office.) I informed her at once that they were still at the Repairing department on my name, told her their contents, since she was curious to know, referred her to the court orders connected with them, and gave her my purpose of complete publication in extenso. Fortunately for scholarship, I did not tell her of the more important records, the voluminous depositions. Her assumed "discovery" of the Bill, Demurrer, and some of the court orders, later referred to in her amateurish first effort at theatrical history in the *Fortnightly Review*, July, 1909, is only one of several "coincidences," some of them of a graver nature, that have occurred during the last few years since I opened this field of research, as mentioned in the Introductory Survey.]

BURBAGE V. BRAYNE

Chancery, Decrees and Orders, 30 & 31 Elizabeth, Hilary, vol. 1588 "A," 485; also 1588 "B," 449.

xvij° die ffebruarij [1588–9]

James Burbage and others —— p^ltes Margaret Brayne widowe Robte Miles and John Gardyner def^tes

ffora∫muche as this Courte was this p*re*∫ent daye informed on the p^les behalf that the def^tes haue put in a very in∫uffycient demurrer to the p^les bill of complainte w^thout ſhewing any good or ſuffycient cauſe therof It ys therefore ordered that the conſideracion of the ſaid bill and demurrer be referred to m^r Dr Carewe one of the M^rs of this Courte To thend he may Reporte vnto this courte whether the ſame demurrer be ſuffycient or not, if not Then a S*ubpoen*a ys awarded againſt the def^tes w^thout further mocion to anſwere directly to the p^les bill of Comp^l and to all the materyall point*es* thereof And the defend^tes Attorney ys to be warned hereof

BRAYNE V. BURBAGE.

Chancery Decrees and Orders, vol. 1589 "A," 610; also in 1589 "B," 597. Easter, 32 Elizabeth (1590).

[While Dr. Carew was carrying out the order of February 17, 1588–9, in the case of Burbage *v.* Brayne, a cross-bill was filed by the widow and Myles, to which the Burbages filed a demurrer. Unfortunately, both bill and demurrer in this suit of Brayne *v.* Burbage are missing, but the Court's orders are preserved. Both cases run parallel, and were taken together by the Court. Hence we have orders and depositions from this date on to the death of the widow in 1593, sometimes under the title of Burbage *v.* Brayne, sometimes under Brayne *v.* Burbage.]

xxj° die Maij [1590]

Margaret Brayne p^l James Burbage Cuthbert Burbage and Richard Burbage dedend^tes

ffora∫muchas this Courte was this p*re*∫ent day informed on the defend^ts behalf that the def^tes haue put in an Jn∫ufycient demurrer to the p^les bill of complainte w^thout

ſhewinge any good or ſuffycient cawſes thereof It ys therefore ordered that the conſideracion of the ſaid bill and demurrer be Referred to M^r^ D^r^ Ceſarr one of the M^rs^ of this courte To thend he may Reporte vnto this Courte whether the ſame demurrer be ſuffycient or not If not then a S*ubpoen*a ys awarded against the def^tes^ to aunſwere directly to the p^les^ bill of complainte and to all the materyall pointes thereof. And the def^ts^ Attorney ys to be warned when the p*re*meſſs ſhalbe conſidered of

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 109; also in 1590 "B," 113. Michaelmas, 32 & 33 Elizabeth (1590).

Mercurij iiij^to^ die Novembris [1590]

Margaret Braynes exec of John Braynes deceaſſed p^l^ James Burbage and Richard & Cuthbert Burbage def^tes^

ffforaſmucheas this courte was this p*re*ſent daye enformed by Mr Scott being of the p^les^ Councell That ſhee havinge exhibited A bill into this Co^rt^ against the def^t^ for and concernyng the moyety of the Theater and other ten*ementes* wch the ſaid James Burbage was by an agreem^t^ had betwene him and the p^les^ late huſbande to aſſigne to thexecuto^res^ adminiſtrato^res^ or aſſignes of her ſaid huſband and to ſuffer him and them to enioye yt for and duringe the whole terme to come in a leaſe made of the ſaid Theate^r^ or of the grounde wherevpon yt ſtand*es* and of other the p*re*miſſes to the ſaid James Burbage by one Gyles Allyn He the ſaid James Burbage hathe not only put in an yll demurrer to that bill wch hathe bene overruled by order of this co^rt^ But alſo dothe by himſelf & thother def^tes^ take awaye the whole gayne and benyfytt of the ſaide Theate^r^ and other p*re*miſſes from the p^l^ Albeyt ſhee and her huſband haue bene at very greate charg*es* in buylding thereof to the ſome of vj C^li^ and did for A tyme enioye the moyety of the p*re*miſſes accordinge to the trewe meanynge of the ſaid agreem^t^ It ys therefore ordered That yf the def^tes^ ſhall not by this daye ſenight ſhewe vnto this courte good cauſe to the con-

trary Then A Sequestracion ſhalbe graunted of the moyety of all the yſſues and p*ro*fyttes of the p*re*miſſes vntill the matter ſhalbe here heard and determyned or otherwiſe ordered by this co^rt^

[The above order was first printed by J. P. Collier, modernized throughout, in his *Memoirs of the Principal Actors* (Shakespeare Society, 1846), p. 8.]

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 145; also in 1590 "B," 150. Michaelmas, 32 & 33 Elizabeth (1590).

Veneris xiij° die Novembris [1590]

Margaret Brayne wid p^l^ / James Burbage Cutberd Burbage and others def^tes^ } fforaſmucheas vpon the openynge of the matter this p*re*ſent daye by M^r^ S^r^ieaunt Harrys beinge of the def^tes^ Councell and ſeakinge for ſtaye of A ſequeſtrac*i*on prayed by a former order on the p^les^ behalf and alſo vpon the hearinge of Mr Scott beinge of the p^les^ councell what he could ſaye touching the cauſe It ſeemed vnto this co^rt^ That there was an Arbytrament heretofore made betwene the p^les^ late huſband & the ſaid James Burbage the xij^th^ daye of July in the xx^th^ yere [1578] of her Maties Raigne by one Richard Turnor & John Hill touching the ſame matter wch ys nowe agayne brought in queſtion And that nether of the p*ar*tyes did nowe ſhewe any ſuffycyent cauſe wherefore the ſame Arbytram^t^ or awarde ſhould not be p*er*formed It ys therefore ordered That the ſaid award or Arbytram^t^ ſhalbe well and truly obſerved and p*er*formed accordinge to the teno^r^ & trewe meanynge thereof Aſwell by the p^l^ and all claymyng from by or vnder her As alſo by the def^tes^ and eu*e*ry of them and all claymynge from by or vnder them or any of them And the ſaid order for ſequeſtrac*i*on ſhalbe ſtayed

[The preceding order caused a tremendous row at the Theatre, and gave occasion for many of the later depositions in the case. Three days after the order, namely, on Nov. 16, 1590, Margaret Braynes, Robert Myles, his son Ralph, and Nicholas Bishop went with this order to the Theatre,

and attempted to stand at the door and take the money for entrance to the play. But Richard Burbage and his mother beat Myles off with a broom-staff, and drove them all away, after a furious quarrel by all parties concerned. Then, a fortnight later, Myles and his faction had the Burbages up for contempt of Court, as shown in the next order. The whole story is told with graphic details in the course of the numerous depositions.]

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 270; also in 1590 "B," 280. Michaelmas, 32 & 33 Elizabeth (1590).

xxviij die Novembris [1590]

Margaret Braynes vid p[l] } Robert Miles made othe that the
James Burbage and others } faid Burbage and Cutbert Bur-
defendauntes } bage haue broken an order made in this Courte, the xiij[th] of November laſt. Therefore an att*achment* is awarded againſt the ſaid p*ar*ties to the ſherif of Midd*le*ſ*ex*.

Idem, vol. 1590 "A," 317; also in 1590 "B," 327.

Sabb*ati* xxx° die Januarij [1590–91]

Margaret Brayne wid p[l] } The ſaid def[t] hathe this p*reſe*nt
Cutbert Burbage def[t] } daye made his p*er*ſonall apparaunce in this co[rt] vpon an att*achment* for ſaving of his bond made to the ſherif of london

BRAYNE *v.* BURBAGE.

Chancery Town Depositions, Bdl. 218, No. 93. Michaelmas, 32 & 33 Elizabeth (1590).

INTERROGATORIES.

Articles vpon the parte and behaulf of James Burbadge and Cuthbert Burbadge and others Defend[tes] to John Hide grocer And Georg Cloughe gentelma*n* Againſt Margaret Braine Widdoe Compl[t].

1 **Impr***imis* whither did one John Brayne the huſband of the Compl[t], and one John Prynn broaker, take vp, borrowe and owe to yo[u] about the xxvj daye of Septemb A° 1579 the ſome of — 125*li* 8*s* 11[d]./ yf thei did: then, whither did the ſaid James Burbadge the defend[t] about the ſame tyme, Mortgadge and convey to yo[u] the ſaid John Hide, the Leaſe, and all his title therin, of and in the Theatre, and other edifici*o*ns in Hallywell, in the Countie of Mid-d*leſex,* the w[ch] he had of one Giles Allen and Sara his Wief vpon Condicon/ That yf the ſaid ſome of 125*li* 8*s* 11[d] were Repaid to yo[u] or yo[r] aſſignes w[th]in xij Monethes & one daie, next enſuing after the ſaid ſeptemb[r] in A° 1579 by The ſaid James Burbadge, that then yo[u] ſhuld Reconvey to him the ſaid Leaſe and Theatre, and other the p*re*miſſes againe. And whither was not the ſaid Leaſe and other bond*es* made by Giles Allen, for the enioying Thereof, Deliuered into yo[r] hand*es* and poſſeſſion, at the tyme of the ſaid Conveyaunc ſealed by the defend[t]/ wth and by the conſent and appointm[t] of The ſaid John Braine yea or no

2 **Item** whither was not the ſaid Leaſe and the ſaid James Burbadge the defendant*es* title theirin, abſoluteli forfeited and loſt to yo[u], for the nonpayement of the ſaid 125*li* 8*s* 11[d], according to the tyme lymyted for the payem[t] Thereof, & to the effect of the ſaid deed of Mortgadge, And whither did yo[u] not repute and accompt yo[r] ſealf, to be therby Rightfull owner of the ſaid Leaſe and title of this defend[t] James Burbadge yea or no

3 **Item** whither was not this defend^{t}, for yor better ſecuretie, bound to yo^{u} Ioyntlie wth the ſaid Braine and Pryne, in abond of 200^{li} wth Condicion endorſed, aſwell for the repaym^{t} of the ſaid mony at the ſaid tyme appointed, as for the p*er*formance of the Covenan*tes* and for p*er*forming The ſaid mortgadge yea or no And whither did the ſaid Brayne or prynn p*er*forme the ſame/

4. **Item** were yo^{u} not offended, that the ſaid Burbadge and Braine, did not repaie yo^{u} The ſaid 125^{li} 8^{s} 11^{d} And did you not Threaten, to put the ſaid Burbadge out of poſſeſſion of the ſaid Theatre, and building*es,* for that yo^{u} receyved no p*ro*fitt therby: And did not yo^{u} arreſt thervpon the ſaid Jeams Burbadge, by p*ro*ces out of her Ma^{tes} bench, about June in A° 1582 And whither did not he ther vpon come to yor howſe wth the officer or balie, that had him vnder arreſt, And whither did not yor wief in yor abſence, accept of xx^{li} paid then to her, to yor vſe by the ſaid defend^{t}, And did ſhe not diſchardge the ſaid defend^{t}, from the ſaid Bailie, vpon Condicion that the ſaid defend^{t}, ſhuld come To yo^{u} when yo^{u} ſent for him, to take order in the p*re*miſſes. And whither did not he repaire to yo^{u} accordinglie, And whither was he not conſtrayned to gyve yo^{u}, newe bond*es* wth a ſuertie, for The forthcomyng at yor howſe, of this defend^{t}, at an howers warning to be ſubject to yor actions.

5 **Item** did not The ſaid defend^{t} complayne to yo^{u}, that the ſaid Braine had Receyved and gotten into his hand*es*, agret porc*i*on of money levied in the ſaid Theatre, at the playe tymes, And that he would catche what he could, And That the ſaid defend^{t} could not enforce him, to delyver any p*ar*te therof neyther To this defend^{t}, nor to yo^{u} towardes an agreem^{t} wth yo^{u} in the premiſſes/ yea or no/

6. **Item** did not yo^{u} thervpon, ſend yor ſ*er*vaunt*es* to Chardge the ſaid Braine not to deale any further wth any thinge, concerning the ſaid Theatre, Except he would deliuer to yo^{u}, The mony he Receyved: And did yo^{u} not appoinct one of yor ſ*er*vant*es* with the ſaid James Burbadge, as in yor ſaid Right, title and intereſt, to

diſchardge, diſmiſe and put out the ſaid John Braine, from the ſaid Theatre yea or no.

7. **Item** whither were yo^{u} not conſtrayned, by reaſon the ſaid Braine would not dep*ar*te wth the mony he had Receyved, to appoinct one of yor ſ*er*vaunt*es* and this defend^{t}, to gather vp. v.^{li} weekelie, during the tyme of plaies; thinking by that meanes, to have paid yor ſealf out of the Theatre, for that yo^{u} ſawe that the ſaid Braines, was ſo Badd a fellowe: And howe mutche mony Receyved yo^{u} by That rate, to yor remembraunce, and was it aboue xxx.^{li} yo^{u} ſo receyved; or les./yea or no

8. **Item** During thes payeme^{tes} whither held yo^{u} ſtill The ſaid Leaſe in yor Hand*es,* And whither did the ſaid Braine afterward*es* paie yo^{u} any other or more mony, then that wch was brought to yo^{u} weeklie out of the ſaid Theatre. yea or no.

9. **Item** whither did not yo^{u}, after the death of the ſaid Braine, and after the receipt*es* abouеſaid, ſaie, that yo^{u} had ſett ouer and aſſigned the ſaid Leaſe, and bond*es* to Cloughe yor father in Lawe, & whither did not he ſue the ſaid James Burgadge, and the ſaid Pryne Thervpon, after the death of Braine And whither did not the ſaid Cloughe, go about to put out The ſaid defend^{t} out of the ſaid Theatre, yea or no after Braines his death and whither did not Burbadge tell yo^{u}, that he could not accompliſhe ſutch order, as the ſaid Cloughe or yo^{u} had ſett downe, and p*re*ſcribed to him, for the redemption of his ſaid Leaſe yea or no

10 **Item** whither did not m^{r} walter Cope, attendant vpon the Lord Trea*ſurer*, write his le*tte*res to yo^{u}, & therby earneſtly entreate, that yo^{u} would ſell to his ſ*er*vaunt Cuthbert Burbadge, yor title and intereſt of the ſaid Leaſe the rather, for that he might help to diſcharge his father out of manie trobles, wch the ſaid Braine & his ſaid father, might haue ſuſteyned about conveyaunc*es* & bond*es,* made by them, about the ſaid Theatre, when was the ſaid le*tt*re written to yo^{u}. And what conteyned it as yo^{u} rememb^{r}

ii **Item** Whither did not yo^{u} thervpon make an agreem^{t} wth the ſaid Cuthbert, for yor ſaid Leaſe and title. And whithe^{r} were yo^{u} paid the mony by him agreed vpon, at his hand*es* & by his appoinctem^{t}. And whither did yo^{u} convey to him accordinglie the ſaid Leaſe. And whither by all this ſpace, did the executors of the ſaid Braine paie to yo^{u} any mony for the p*re*miſſes. yea or no.

DEPOSITIONS

Ex p*ar*te Jacobi Burbage

Octauo Dec 33 E. Regine

Jo. Hide of London grocer of thage of lviij yeres or therabout*es* ſworn &c. i. Int*errogatory* That true it ys one Jo Brayne late huſband of the Comp. and one Jo. Prynne a Broker did take vp, borow and owe vnto hym this dp^{t} about the xxvj day of Sept 1579. the ſome of 125^{li} 8^{s} 11^{d}. or thereabout*es* as this dp^{t} rem*embereth* and he doth alſo well know & rem*ember* that the ſaid James burbage the now def did about the ſame tyme morgage and convey vnto hym this dep^{t} the leaſe and all his title therin of and in the Theatre and other buyldinge*s* in Halliwell in the Com*itatu* of Midd*leſex* the wch he had of one Giles Allen and Sara his wief Vppon Condic*i*on to this effect that if the ſaid ſome of one hundred xxv^{li} were repaid to hym this dp^{t} or to his aſſignes wthin twelve monethes and one day next enſewing after the ſaid Septemb*er* 1579 by the ſaid James burbage That then he this Dep^{t} ſhuld reconvey to hym the ſaid James the ſaid leaſe and Theatre and other the premiſſs agayne And as he rem*embereth* the leaſe and other bondes made by Giles Allen for the enjoying therof were d*elivered* in to his hand*es* and poſſ*eſſion* at the tyme of the ſaid conveyaunce ſealed by the def. wch was donne wth the conſent and appoyntm^{t} of the ſaid Jo Brayne./

2 That not only the ſaid leaſe but the ſaid James burbage the Def title therin was abſolutely forfeited and loſt to hym this Depon^{t} for the none paym^{t} of the ſaid ſome of 125^{li}—8—11. or therabout*es* according to the tyme lymyted for the paym^{t} thereof and to theffect of the ſaid dede of morgage And he this dp^{t} did

accompt and repute hymſelf to be therby rightfull owner of the ſaid leaſe and title therin of the ſaid James Burbage

3 That the def for this dp^tes^ better ſecurite ſtode bound to hym this dep^t^ ioyntly wth the ſaid brayne and Pryne in a bounde of 200^li^ (as this dep^t^ rem*embereth*) wth condicion indorſed aſwell for the repaym^t^ of the ſaid money at the tyme appoynted as for the p*er*formaunce of the Couen*ant*es and p*er*formyng the ſaid morgage wch Brayne and Pryne nor either of them did p*er*forme

4 That true it is he was offended that the ſaid burbage and Brayne did not repay hym the ſaid ſome of 125^li^ 8^s^ 11d And did thervpon threaten to put the ſaid burbage out of poſſeſſion of the ſaid Theatre. and buyldinges for that he this dep^t^ rec*eived* no p*roffit* thereby and thervpon did cauſe the ſaid James burbage to be arreſted by proces out of her ma^tes^ Benche about June as he rem*embereth* 1582. And the ſaid James Bur: did thervpon come to this dp^tes^ houſe wth the officer or bailif that had hym arreſted and this dp^tes^ wief in his abſense did accept of xx^li^ paid vnto her to his this dp^tes^ vſe by the def And the ſame def was thervpon either by hym this dep^t^ or his wief but preciſly by whether of them he doth not nowe rem*ember* diſcharged from the bailif vpon Condicion that he the ſame def ſhuld come vnto hym this dp^t^ when ſoeuer he the ſame dep^t^ did ſend for hym to take order in the premiſſes. And the ſaid def did accordingly repaire vnto hym and did geue vnto hym this Dep^t^ new boundes wth a ſurety for his furthcoming to this dp^tes^ houſe at an houres warning to be subiect to his this dp^tes^ accions./

5 That true it is the Def burbage did complayne vnto hym that the ſaid brayne had rec*eived* and gotten in to his hands a g^t^ porcon of money levied in the ſaid Theatre at the play tymes and that he wold catch what he cold and that he the ſame def cold not enforce hym to del*iver* ay part therof neither to hym the ſaid def nor vnto hym this dp^t^ towardes an agrem^t^ wth hym this Dep^t^ in the premiſſes.

6. That he thervpon did ſend his S*ervantes* to chardg the ſaid Brayne not to deale ay further wth ay thing concerning the ſaid Theatre, except he wold d*eliver* vnto hym this dp^{t} the money he rec*eived.* And this d*eponen*^{t} rem*embereth* that he did appoint one of his S*ervantes* wth the ſaid James burbage as in his this dep^{tes} right title and intereſt to diſchardg diſmyſſe and put out the ſaid Brayne from the ſaid Theatre/

7. That by reaſon the ſaid braine would not dep*ar*te wth the money he had rec*eived* he this dep^{t} was conſtreyned to appoynt one of his S*ervantes* and the ſaid Ja. Bur*bage* the def to gather vp v^{li} wekely during the tyme of playes thinking by that meanes to haue p^{d} hym ſelf wth the proffit*es* of the Theatre ffor that he ſaw the ſaid Brayne to be ſo bad a fellow And this dp^{t} by that rate did rec*eive* in money to the ſome of xx or xxx^{li} as he rem*embereth./*

8 That during the ſaid paym^{tes} he held ſtill the ſaid leaſe in his handes. And depoſeth that the ſaid Braine did not afterward pay vnto hym this dp^{t} ay other or more money than that wch was brought to hym wekely out of the Theatre as aforeſaid

9 That after the death of the ſaid Braine and after the recept*es* as aforeſaid he did ſay and gaue it out in ſpech that he had ſet ouer and aſſigned the ſaid leaſe and bond*es* to one George Clough his this dp^{tes} ffather in lawe but in truth he did not ſo neither did the ſaid Clough to this dp^{tes} rem*embrance* and as he thinketh few the ſaid James Bur*bage* and the ſaid Pryne or either of them after the death of the ſaid Brayne. But this dp^{t} thinketh that the ſaid Clough his father in law did go about to put the ſaid def out of the Theatre or at leſt did threaten hym to put hym out And as this dp^{t} rem*embereth* the ſaid burbage did tell hym that he cold not accompliſh ſuch order as he this dep^{t} and his ſaid ffather in law Clough had ſet downe and preſcribed to hym for the redemp-cion of his ſaid leaſe

10 That m^{r} Walter Cope being Attendaunt vpon the L*ord* Treaſaurer

did write his le*tte*res to hym this dp^{t} thereby intreating hym that he wold ſell to his the ſame m^{r} Copes S*er*vante Cuthber burbage his title and intereſt of the ſaid leaſe the rather for that he might help to diſcharg his father (meaning the def) out of may [=many] troubles wch brayne and his ſaid ffather might haue ſuſteyned about conveyaunc*es* and bond*es* made by them concerning the Theatre And to this dp^{tes} beſt rem*embrance* the ſame were the effect of the content*es* of the ſaid le*tte*res But the certeyne tyme when the ſame le*tte*res were ſo written he rem*embereth* not/

11 That he did thervpon make an Agrem^{t} wth the ſaid Cuthbert for his ſaid Leaſe and title and intereſt therein and was truly paid the mony by hym agreed vpon at the hand*es* of the ſame Cuthbert and by his appoyntm^{t} and this dp^{t} did convey vnto hym the ſaid leaſe accordingly. And depoſeth that by all this ſpace Thexecuto^{rs} of the ſaid Braine did not pay vnto hym this dep^{t} ay one peny for the p*re*miſſ*es*. And more this dp^{t} ſaith not in this matter/

pro burbage

Die & Anno pred*ictis*

George Clough of London Clotheworker of thage of xlviij or therabout*es* ſworn &c 1. 2. 3. 4. 5. 6. 7. & 8. J*nterrogatories* he cane not depoſe

9 That on a tyme but certenly how long ſithens he rem*embereth* not. one Jo Hide of London grocer who had maried this dp^{tes} wief*es* daughter told hym this dp^{t} y^{t} he had certeyne mony owing vnto hym by one burbage and one brayne as this dp^{t} rem*embereth* and y^{t} for his ſecuritie of the paym^{t} thereof he had aſſ*ig*ned vnto hym a leaſe of the Theatre and told this dp^{t} that he cold not haue his money p^{d} and therfore requeſted hym this dp^{t} being his father in law to go vnto the ſaid burbage to demand of hym the money he owed hym and to ſay that he had aſſigned ouer the ſaid leaſe to hym this dp^{t} And this dp^{t}. thervpon went diuers and ſondry tymes to the ſaid burbage and rec*eived* money of hym due to the ſaid Jo Hide wherof he made vnto the ſame Jo Hide an Accomp.

from tyme to tyme as he rec*eived* the ſame but to how moch the ſame moni*es* did a mount vnto this dp^{t} remembereth not. Neither did he at ay tyme to his rem*embrance* ſeue the ſame James burbage or one Js. Prynne concerning the ſaid Leaſe nor went about to put the now def out of the Theatre nor ay thing ell*es* to that Jnt*errogatory* canne depoſe nor more faith in this matter

[Signed] George Cloughe

BRAYNE *v.* BURBAGE (CONTEMPT)

Idem. Bdl. 221, No. 12. Hilary, 33 Elizabeth (1591).

Interrogatories to be mynyſtred on the p*ar*te and behalf of Margaret Braines widowe Compl^{t} againſt James Burbage & Cuthb*er*te Burbage defend^{tes} vpon contempt

1 **Inprimis** whether were you Cuthbert Burbage p*refe*nte at the Chauncery Barr the xiij of Nouember 1590 the Court ther beinge moved by yor owne Councell m^{r} Seriant Harris to ſtay and Order before granted vpon a Sequestracion of the Moytie of the Theatre at the ſute of Margaret Brayns the nowe Compl^{t}. Againſt yow and others And wheth^{r} did not yow them wth the Conſent of your ſaid Councell Cauſe and order to be ſett downe for to p*er*forme the Arbitram^{t} made and Ordered by Richard Turner and John Hill betwene the ſaid James Burbage & John Braines the huſband of the nowe Complain^{t} Dated the xij of Julie in the xxth yere of her Maties reigne yea or no/

2 **Item** whether do yow James Burbage and Cuthb*er*t Burbage knowe of your owne knowledge or otherwiſe haue hard ſay that one Robert Myles wth divers others vpon the xvjth of Nouember laſt paſt did come in the behalf and in the name of the Nowe Compl^{t} to the nowe dwellinge howſe of the ſaid James Burbage your ffather and ther did demande of yow both the p*er*formance of the ſaid Award accordinge to the ſaid Order And wheth^{r} did not yow both then ſay that yow would not ſtand to anie ſuch

order and that the Court of Chancery ſhould not Coſen yo^{w} Cuthb*er*te of your right yea or no, and what was y^{e} ſpeaches yow both then vſed

3 **Item** whether did not yow James borbadges ſaye or ſpecke thes wordes in this interrog*atory* foloinge or word*es* to that Efecte Cuthb*er*te Burbage yo^{u} heard the ſaid James your ffather ſay that he would not obay the ſaid Order and threaten the ſaid Rob*er*te Myles to beate him of the grounde and that he cared not a tord for Conſcience wth other odious termes and what was the wordes your ffather and yow then vſed to the ſaid Rob*er*te Myles Declare the whole truth therein

4. **Item** whether do yow James and Cuthb*er*te Burbage know the ſaid Margaret Braines the nowe Comp^{lt}. wth divers other p*er*ſons accompanyinge wth her ſithence the Order made came to the Theatre and ther Demanded of yow and your ffather and of the ten*ant*es ſuch rent*es* as were due and behinde for the Moitie of the theatre and all ſuch ſomes of money as were then dewe accordinge to the ſ*aid* Arbitrement made as beforeſaid and whether did yow ſay or here your ffather ſay or both y^{t} the ſaid Compl^{t} had nothinge to do ther and that yow would not obay the ſaid order and ffurther ſaid that yf ſhe or any for her or in her behalf came any more vpon the ſaid ground yow would beate them from the ſame and did not yow both vſe her wth moſt vnſemely and bad ſpeaches Declare yor knowledge therin

5 **Item** wheth^{r} did yow Cuthb*er*te Burbage vpon the xxixth of Nouemb^{r} nowe laſt Come into the howſe of one Henrie Bett*es* in Shordich wher the ſaid Robt Myles then chanced to be and ther in ſcoffinge manno^{r} did aſke him when he would Come againe to the Theatre for any more Rent in the Comp^{t*es*} behalf and whether did not yow ſay then that yf he did Come anie more abought anie ſuch matter he ſhould be thorowghly payed home notwthſtandinge the ſaid Order or word*es* to the like effect and what was the wordes yow then vſed to him towchinge the ſame. ſpeake to your knowledge

6 **Item** whethr did yow James Burbage heare or knowe of any Order to be made in the chancery the xiijth of Nouembr 1590 vpon a moticion made by mr Seriante Harris beinge of yor councell for a ſtay of a ſequeſtracion of a moity of ye Theatre and other the tenemtes and whethr haue yow both done your beſt endever to performe the ſaid Arbitramt & Order made as aforeſaid yea or no

Scott [Attorney]

DEPOSITIONS

Reſponſio Cuthberti Burbage vnius defendentum, ad articulos Margarete Braynes viduae ſuper Contemptum ut afferitur capta per Henricum Johnes in Cancellaria Examinatorem./

Cuthbert Burbage ſervaunt to Walter Cope eſquier gentleman vſher to the lorde Treaſorer of England/ of the age of xxiiij yeres or theraboutes ſworn and exd the xvj Daye of ffebruary in the xxxiij yere &ct To the firſt Interrogatory that he was preſent at the Chauncery Barre the xiij daye of November laſt paſt 1590 when Mr Serieant Harrys did move the corte on the behalf of this depotes ffather to ſtaye an Ordre wch was before graunted by the ſame/ vpon A Sequeſtracion of the one Moytie of the houſe or building called the Theator in Shordyche/ wth out Biſhops gate London/ at the Sute of the now complainant/ At wch tyme and mocion the corte ordered/ that an Arbytryment made by Rychard Turnor & Jo. Hill named in this Interrogatory betwene James Burbage this depotes ſaid ffather and Jo. Braynes deceſſed late huſband to the now complainant in Julye in the xxth yere of her Mates Reign/ ſhuld be performed & fulfylled by ether ſydes/

To the 2. that it is true indede/ that Robert Myles named in this Interrogatory/ and others wt him came to this depotes ffathers dwelling houſe in Hallywell by Shordiche vpon or about the xvj day of November/ aforeſaid/ for & in the name of the now compl as he ſaid/ and Demaunded Rent/ and the performance of the ſaid Award according to the ſaid Ordre/ and what anſwer

this depo^{tes} ſaid ffather made vnto him he ſaith he Reme*m*breth not/ but this depo^{t}. made him anſwer/ that he ſhuld haue no Rent ther he wold ſufficientlie anſ*w*er the co^{r}te the cauſe why/ whe*n* he were called/ and w^{t} all told him that Braynes nor his wyef had no right there/ ffor it was his this depo^{tes} & he had boght it w^{t} his owne p*r*oper money as they well knewe/ And vtterlye denyeth that he ſaid/ that he wold not ſtand to any ſuche order & that the Co^{r}te of Chauncery ſhuld not Coſyn him of his right/ Nor any word of ſuche vnreue*r*end/ & vnduetyfull ſpeche

To the 3. that when the ſaid Myles came to this defend^{tes} fathers houſe as aforſaid in the laſt former Int*e*rrogatory he came in ſuche rude & exclam*m*able ſort/ as indede his ſaid ffather threatened to ſett him away of his ground/ yf he wold not go his waye quyetlie/ And ſaith that true it is he this depo^{t} heard not his ſaid ffather ſaye/ nor vtter vnto him any ſuche ymperyous Wordes/ as that he wold not obey the ſaid Ordre/ Nether did ether this depo^{tes} ſaid ffather/ nor he this depo^{t} threaten to beat the ſaid Myles/ Nether did he this depo^{t} hear his ſaid father vtter any ſuche an vnreue*r*end & vnſemelye worde of Conſcience/ as is ſo malycyouſlye & vngodlie ſett down in this Interr*o*gatory/

To the 4. that he ca*n*not certenlye depoſe/ what anſ*w*er or ſpech this Depo^{tes} ſaid ffather made or vttered to the comp^{l} at any tyme ſhe came to him/ or to the Theater/ for any Rent or other Demaunde/ co*n*cerni*n*g the moytie of the ſame/ for he did not heare the ſame/ Or at the leaſt he did [not] hede the same/ And what anſ*w*er this depo^{t} made to her/ and the ſaid Myles he hath depoſed before/ And ſo ſaith ſtill/ that/ nether ſhe nor any by or vnder her/ haue any thing to do ther/ ffor it is this depo^{tes} right/ & none ells/ And otherwyſe to this Int*e*rrogatory he ſaith he ca*n*not depoſe/

To the 5. that true it is/ he this depo^{t} ſins he was ſe*r*ued w^{t} the ſaid Attachem^{t}/ chaunced to mete the ſaid Robert Myles at one Henrye Bett*es* houſe by Shordiche Church/ where the ſaid

Myles begann to Gybe & Scoffe this depo^{t}/ concerning moche of the matters depending in Sute betwene the ſaid comp^{l}/ and this depo^{tes} ſaid ffather & him this depo^{t}/ and that ſhe ſhuld haue this & that And this depo^{t} told him/ that nether he nor ſhe could do more then Juſtice bidd them/ and that he was ſure/ the right was in him this depo^{t}/ and therfor wiſhed him to deale no furth^{r} in the matter/ nor to come againe to Demaunde any Rent there/ ffor yf he did/ this Depo^{t} wold paye him truelie/ But wth out that/ that he added theſe wordes/ vizt/ notwthſtanding the ſaid Ordre/ for he ſayd it not/

To the 6. that for his own parte he can ſay no more/ then he hath before ſaid/ And this for his true anſwer to the ſaid Interrogatories/

[Signed] Cuth: Burbadge.

James Burbage of Hallywell in Shordiche w^{t}out Crypple gate London gentleman of the age of lx yeres or theraboutes ſworne and exd the Daie and yere aforeſaid &ct To the firſt Interrogatory. That he doth thinke/ ther was ſuche an order ſett down in the Co^{r}te of Chauncerye for the ſtay of the ſaid Sequeſtracion/ at the mocion of Mr Serieant Harrys/ in the behaulf of this depo^{t} and of his ſone Cuthbert Burbage/ for to that end/ this Depo^{t} and his ſayd ſone gave him iuſt Inſtruccions of the matter/ and accordinglie this Depo^{tes} Counſell opteyned the ſame/ And ſaithe that at that tyme/ at the mocion of ther counſell/ ther was an ordre ſett downe/ that the Arbitrym^{t} & Award wch was made & ordred/ betwene this depo^{t} and Jo. Braynes deceſſed the huſband of the now comp^{l}/ by Rychard Turno^{r} & Jo. Hill named in this Interrogatory ſhuld be performed & done/ and this Ordre was made in Julye in the xx yere of her Maties/ Reigne/ and wch this Depo^{t} for his parte hath performed/ as farre as in him hath layne/ as he verelie beleveth/

To the 2. that true it is/ Robert Myles named in this Interrogatory w^{t} ij° other perſons w^{t} him whoſe names he knoweth not/ in

Novemb^{r} laſt paſt the certen Daye he now reme*m*brethe not/ did in the behaulf of the now comp^{l} come to this Depo^{tes} Dwelling houſſe nere the Theater in Shordiche/ and there did demaund firſt of this depon^{tes} ſone/ the moytie of the ſaid Theatre & the Rent*es* of the ſame to her vſe/ and of the p*er*forma*n*ce of the ſaid Award/ and what anſ*w*er this Depo^{tes} ſaid ſone made him thervnto/ he ca*n*not certenly tell But he ſaithe/ that this Depo^{t} being w^{t}in the howſe/ hearing A noyce at the do^{r}/ went to the do^{r}/ and ther founde his ſone the ſaid Cuthbert and the ſaid Myles ſpeaking lowde together/ And aſking what the matter was/ the ſaid Myles did as afore Demaund the moytie of the ſaid Theatre/ and the Rent therof/ and the p*er*forma*n*ce of the ſaid Award on the Comp^{ltes} behalf and then this Depo^{t} told him/ that/ the Ordre did not warrant any ſuche demaund of Rent nor of any moytie of the ſaid Theater/ And for the p*er*forma*n*ce of the ſaid Award/ he told him that he this Depo^{t} for his parte could not p*er*forme it better/ then he had done/ And then the ſaid Myles ſayd/ that by the ſaid Award the moytie of the Theater/ & the Rent therof are to be had & Receyved by & to the vſe of the ſaid comp^{l}/ So it was indede qd this depo^{t}/ before Jo. Braynes himſelf & he this depo^{t}/ Did after the making of the ſaid Awarde/ Joyne in A graunt to one Henry Laynma*n*n gent/ of the one Moytie of the ſaid Theater & of the proffitt*es* and comodities growing therby for certen yeres yet enduring/ as by the Dede y*er*of maye appere/ and bound them ſelf in g^{t} bond*es* for the p*er*forma*n*ce therof/ And further ſaith that long after the ſaid Arbytryment and award & before the graunt made to the ſaid Laynman the ſaid Braynes the comp^{ltes} ſaid huſband did procure this depo^{t} to morgage the leaſe of the ſaid Theatre for the ſome of Cxxv^{li} & od money to one John Hyde of London grocer/ for one yere/ & after that for another yere/ w^{t} A proviſo that for the none paym^{t} of the ſaid ſome at A daye/ the ſaid leaſe to be forfettyd/ wch was forfetted accordinglie by the none paym^{t} of the money. So as then the ſaid Hyde was fullye and abſolutelye poſſeſſed therof/ to diſpoſe of the ſame at his will and pleaſ*ur*/ by wch meanes/ he this depo^{t} doth verelie take it/ that the ſaid Arbytryment/ and award was determyned & diſſolued/

To the 3. that true it is, he for his owne part did neu*er* ſaye that he wold not obey the Ordre of the chauncerye/ But he this depo^{t} being nerely vrged and dared by the ſaid Myles/ w^{t} g^{t} threates & wordes that he wold do thys/ and could do that/ to the vndoing and g^{t} Dyſgrace of this depo^{t} and his ſone he this depo^{t} told him/ that/ it was too moche to face him ſo on his owne grounde/ & that he knew/ he could not anſw*er* it/ And that yf he wold not leave his Rayling & quyetlye dep*ar*te/ he this depo^{t} wold/ ſend him away/ w^{t}out that/ that ever this depo^{t} did ever ſay or thinke the vnreu*er*end word*es* ſett down in this Int*errogatory* againſt Conſcience ſurmyſed by the ſaid Myles to be vttered by this Depo^{t}/ at that tyme/

To the 4. that true it is/ the ſaid comp^{l} accompanyed w^{t} the ſaid Myles and others came to the ſaid Theater to the Ten*ant*e*s* therof/ and there verye ymperyouſlie ſyns the ſaid Order/ did chalendge & Demaunde Rent*es* of the ſame as due vnto her for the moytie of the ſame/ according to the ſaid Arbytrym*en*^{t}/ And anſw*er* was made vnto her/ and them that came w^{t} her/ both by the ſaid ten*ant*e*s* and Cuthbert this depo^{tes} ſone/ that ſhe had nothing to do there/ and that they neu*er* knew her to haue any intereſt in the ſame/ But what the ſubſtance of ther talke was then betwene them/ he ca*n*not Depoſe ffor he was not p*re*ſ*e*nt therat/

To the 5. that he ca*n* ſay nothing but by heare ſaye

To the 6. that he can*n* ſay no more in effecte/ then he hath before ſaid to the firſt Int*errogatory*/ Nor more faith to all the ſaid Int*errogatories*/

[Signed] By me James Burbage

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 456; also in 1590 "B," 455. Hilary, 33 Elizabeth (1590–91).

xxiij die Marcij [1590–91]

Margaret Brayne widowe playntif
Cutbearde Burbage
James Burbage def^tes

} Whereas the def^tes haue bene examyned vpon Interrogato^res at the p^les ſuyte towchinge the breache of an order made in this Courte betwene the ſaid p*ar*^ties: It is ordered by the Right worſhip^ll the M^r of the Rowll*es* that the Conſideracion of theire examynac*i*ons be Referred to Mr Docto^r Ceſar one of the M^rs of this Courte To thende he maye Conſider and Reporte to this Courte whether the ſaid def^t or eyther of them haue Committed anye Contempte or not That further order maye be taken therevppon accordinglye And the ſaid def^tes or theire Attornes are to be warned when the p*re*miſſes ſhalbe ſo conſidered of/

[The above order was first published, modernized throughout, in Collier's *Actors* (*n. s.*), p. 9.]

BURBAGE *v.* BRAYNE

Chancery Decrees and Orders, vol. 1590 "A," 493; also in 1590 "B," 497. Easter, 33 Elizabeth (1591).

Sabb*ati* xxiiij^to die Aprilis [1591]

James Burbage p^l
Margaret Brayne & Robte def^t

} ffora*ſ*muche as this co^rt was this p*refe*nte daye enformed on the p^les behalf That the ſaid def^tes hathe in A very fryvolous and Inſuffycynt demorrer to the p^les bill w^thout ſhowinge any good cauſe thereof Therefore the conſyderac*i*on of the ſaid bill and demorrer ys Referred to Mr Dr Carewe one of the M^rs of this Co^rt

To thend he maye conſyder and report to this co^{rt} whether the ſaid demurrer be ſuffycynt or not yf not Then A *subpoena* ys awarded againſt the def^{tes} to make A p*er*fect and dyrect aunſwere to the p^{les} bill of Comp^{l} and to all the materyall poynt*es* thereof And the def^{tes} Attorney ys to be warned when the p*re*miſſes ſhalbe ſo conſydered of

[The above order, modernized in spelling, was printed by J. P. Collier in his *Actors* (*u. s.*), p. 9.]

BURBAGE *v.* BRAYNE

Chancery Decrees and Orders, vol. 1590; "A," 720; also in 1590 "B," 725. Trinity, 33 Elizabeth (1591).

Martis xv^{to} die Junij [1591]

James Burbage p^{l}
Margaret Brayne
Myles def^{t}

} ffforaſmuche as this co^{rt} was this p*reſe*nte daye enformed on the p^{les} behalf That the ſaid defte hathe put in an Inſuffycyent demorrer to the p^{les} bill wthout ſhewing any good cauſe thereof Therefore the conſyderac*i*on of the ſaid bill and demorrer ys Referred to Mr Dr Carewe one of the M^{rs} of this co^{rt} to thend he maye conſyder and reporte to this co^{rt} whether the ſaid demorrer be ſuffycyent or not yf not Then A *ſubpoena* ys awarded againſt the def^{t} to make p*er*fect and dyrect aunſwere to the p^{les} bill of Comp^{l} and to all the materyall poynt*es* thereof And the def^{tes} Attorney ys to be warned when the p*re*miſſes ſhalbe ſo conſydered of/

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 818; also in 1590 "B," 831. Trinity, 33 Elizabeth (1591).

xx° die Julij [1591]

Margaret Brayne widowe p[l] Cuthberte Burbage and James Burbage defend[tes] } fforaſmuche as M[r] D[r] Ceſarr one of the M[rs] of this Courte to whoſe conſideracion the def[tes] examinacions vpon Interogatories towchinge the breache of an order made in this Courte was referred can not nowe attend the ſame It ys therefore by the Right worſhipfull the M[r] of the Rowles ordered that M[r] D[r] Hone one other of the M[rs] of this Courte ſhall conſider aſwell of the ſame contempte As alſo heare and end the cawſe in queſtion betwene the ſaid p*ar*ties yn this Courte, yf he can yf not that then he certifie into this Courte aſwell what he ſhall finde towchinge the ſaide contempte As alſo his opinion of the ſaid cawſe And by whoſe defalt he can not end the ſame wherevpon ſuche further order ſhalbe taken therein as to this Courte ſhalbe thought meete.

[The above order, modernized throughout, was first printed in Collier's *Actors* (*u. s.*), p. 10.]

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1591 "A," 16; also in 1591 "B," 18. Michaelmas, 33 & 34 Elizabeth (1591).

Marti xij° die Octobris [1591]

Margaret Brayne wid p[l] James Burbage and Cutbart Burbage df[tes] } Vpon the opening of the matter this p*ref*ente daye by M[r] S[r]ieant Harrys being of the def[tes] councell and comynge to ſhowe cauſe wherefore an attachm[t] ſhould not be awarded againſt them vpon A reporte lately made by M[r] D[r] Hone one

of the Mrs of this cort of a contempt ſuppoſed to be comytted on the deftes behalf It ys thought meete and ſo ordered by this courte That no advantage or further proceeding ſhalbe had vpon that reporte But that Mr Dr Stanhope and Mr Dr Legg two of the Mrs of this courte ſhall conſyder and reporte to this cort whether the deftes or either of them haue comitted any contempt or not in breache of A former order Layd to theire charge vpon whoſe reporte ſuche order ſhalbe peremptoryly taken wthout further delaye as to this cort ſhall be thought meete

BRAYNE *v.* BURBAGE

Chancery Decrees and Orders, vol. 1591 "A," 151; also in 1591 "B," 163. Michaelmas, 33 & 34 Elizabeth (1591).

xiij° die Novembris [1591]

Margaret Brayne widowe pl
James Burbage & Cutbert Burbage deftſ

Vpon the opening of the matter in varyance to the right worſhipfull the Mr of the Rolles by Mr Scott on the behalf of the ſaid pl after the Ryſing of the courte It appered that before this tyme the conſyderacion of the cauſes was Referred to Mr Dr Stannop and Mr Dr Legg two of the Mrs of this cort who haue heard the cauſe and the councell on bothe partes and haue made A reporte in wryting vnder bothe theire handes being in hec Verba By order of the xijth of october laſt wee haue had the councell on bothe partyes before vs and entring into the conſyderacion of the contempt comytted to vs to examyne them Wee doe fynde that wee could not well proceede to examyne them before John Hyde of London grocer and Raphe Myles of London Sopemaker were examyned towching the cauſe and one Nicholas Buſhop and John Allen vpon the contempt in the Interrogatoryes againſt the ſaid deftes pretended wherevpon yt was concented by Councell on bothe ſydes That the courte would be pleaſed to geve aucthoryty vnto vs to geve othe vnto

all theſe p*ar*tyes to aunſwere to ſuche Interrogatoryes on ether ſyde to be mynyſtered as by theire councell Learned ſhould be mynyſtered vnto them and vpon theire depoſyc*i*ons wee maye better p*ro*ceede to examyne the p*re*tended contempt*es* As by the ſame Certyficate maye appere It ys ordered That the matter be agayne Referred to the ſaid Mr Dr Stannop and Mr Dr Legg and aucthoryty ys geven vnto them by this co^rt^ to call all the ſaid p*er*ſons named in the ſaid Certyfycate or reporte and to examyne them vpon theire othes vpon ſuche Interrogatoryes as ys men-c*i*oned in the ſaid reporte To thend this co^rt^ maye the better be enformed towching the ſaid ſuppoſed contempt/

[Thus the whole case was placed in the hands of the two Masters in Chancery, Dr. Legg and Dr. Stanhope, to be heard and determined. Accordingly, they examined many witnesses during the succeeding year. It is not practicable to arrange the depositions in exact chronological order, because some of the five following sets of them were taken concurrently with others. They are here placed, therefore, in the order in which they were filed by the Court, the depositions of Hyde, Myles, Bishop, and Allen, mentioned in the above report, coming next to the last, and their cross-examinations in behalf of the Burbages, last, in the series of examinations in this case.]

BRAYNE *v.* BURBAGE

Chancery Town Depositions, Bdl. 226, No. 9, Michaelmas 33 and 34 Elizabeth (1591).

INTERROGATORIES

Will*ia*m Clerk iur*atus*
25 Feb 1591 cor*am*
Mat Carew

Articles to be mynyſtered vpon the parte and behaulf of James Burbage and Cuthbert Burbage Defend^tes^ againſt Margaret Braines the executrixe of John Braynes Complayn*a*nte, to Giles Allyn gentelman, Bryan Ellame, Richard Hudſone, [*John Greges,*

William Botham, (stricken out)] Wm Clarke, Henry Bett gen*tleman* ſcryvener.

.1. **Imprimis** Whither did yo^u^ knowe John Braines whileſt he lyved. And whither do yo^u^ knowe the p*ar*ties plaintife and defendaunt*es*. And how longe haue yo^u^ knowen them.

.2. **Item** whither did James Burbage the one of the defend^t*es*^ take a Leaſe of yo^u^ of certaine void ground & decaied Tenementes in Hallywell, wheron the Theatre is now builded. And whither did John Brayne at the enſealinge of the ſaid Leaſe or at any tyme before, make ſute or require of yo^u^ to be ioyned with the ſaid Burbage in the ſaid Leaſe. Or to make the ſame in truſt to the ſame Burbege to his the ſaid Braines vſe. Yea or no.

.3. **Item** what fyne or Jncome did the ſaid Burbege paie or bynd himſealf to paie to yo^u^ for the ſaid Leaſe. And how mutch therof is to yo^u^ paid And how mutch is v*n*paide. And whither did the ſaid John Braines paie to yo^u^ any p*ar*te therof Or promyſe to paie yo^u^ any p*ar*te therof. And whither did yo^u^ alwaies repute the ſaid Burbedge to be yor Ten*a*nte only of ye p*re*miſſ*es* Yea or no. And what rent did yo^u^ receyve for the p*re*miſſ*es* before yo^u^ demyſed the ſame to Burbag

4. **Item** whither did Braines at any tyme paie to yo^u^ any rent for the ſaid Theatre and p*re*miſſes by yo^u^ demyſed to the ſaid Burbege. And whither was ther not owinge vnto yo^u^ ſix yeres before the death of the ſaid Braines more or leſe the ſome of the fyftie and one poundes or therabout p*ar*te of wch ſaid ſome beinge for the ſaid fyne, & p*ar*te for Arrerag*es* of Rent, And who p^d^ yo^u^ the ſame/

5. **Item** whither did yo^u^ vewe the new buildinges and the Repra*c*ions done by the ſaid Burbage vpon & in certaine decayed howeſes houlden of m^r^ Allyn in Hallywell, To what ſome of mony did yo^u^ eſtymate the ſaid buildinge*s* and Repa*r*acions. Or what ſome or ſomes of monye do yo^u^ knowe or haue herd ſaye that the ſaid Burbage did beſtoe in the ſaid New buildinge*s* & in the decayed

howſes adioyninge to the ſaid Theatre & vpon the Repairyng of the Theatre · And whither did John Braine or his executor beſtoe or laie out any mony theron or paye any thinge towardes the ſaid Buildinges or Reparacions, yf he did, How mutche did he diſburſe or paie/ And whither was ther iij^{xx}x^{li} [=70 *l.*] beſtoed on the Theatre ſince Braines death yea or no

.6. **Item** what ſome of monye hath the ſaid Burbage diſburſed in Repayringe of the Theatre more then Brayne did Joyne wth him in allowaunce of the ſame Reparacions, And how know yo^{u} the ſame. And what Bondes wherin the ſaid Braines & Burbage were ioyntlie bound, hath the ſaid Burbage paid and diſchardged ſythenc the deathe of Braines And to what vallewe do the ſaid Bondes arriſe vnto. And whither did the ſaid executrix ioyne wth him in the payem^{t} therof. And what other ſomes of monye hath he paid wherof the moitie ought to haue byne p^{d} by Braines or his executo^{rs} as yo^{u} knowe or haue herd. And how knowe yo^{u} the ſame

.7. **Item** whither was ther any Arbitrem^{t} made betwen them about the endinge of the controverſies moved betwen them for the profittes of the Theatre. And whither was the Arbitrem^{t} obſerved. And what ſome of mony did the ſaid Burbage demaunde of Braines by force of the ſaid Arbitrem^{t}. And how know yo^{u} the ſame.

.8. **Item** whither do yo^{u} knowe or haue herd ſaye That the ſaid Burbage had Mortgaged forfeited & loſt his ſaid Leaſe to one John Hyde grocer, And whither did the ſaid Hide arreſt the ſaid Burbage vpon pourpoaſe to haue removed him from thence/ And whither haue yo^{u} herd or did yo^{u} knowe of yor owne knowledge that Cuthbert burbedge the other defend^{t} did pourchaſe and buy wth his proper monye the ſaid Leaſe of the Theatre of the ſaid Hide. And to his owne vſe onlye. yea or no

.9. **Item** what haue yo^{u} herd the ſaid Hyde confeſe and ſaie towchinge ſutch ſomes of monye as he receyved at the Theatre. And whither haue yo^{u} herd him ſaye That he neuer made any agreem^{t}

wth Braine nor Burbage the father for the reconveyinge of the ſaid Leaſe to them. And that the ſomes of monye by him Receyved, were the profitt*es* of the Theatre And not for the mony lent vpon the Leaſe, nor for the redemption therof / nor for vſurye for the forbearinge of his monye. yea or no

NOTE TO THE EXAMINER.

[This note is attached in front of the interrogatories, but belongs chronologically after them as here placed.]

A brief noate for the eaſe and ſpede of the examiner, ſhewinge how many Articles are to be obiected, to eache p*ar*tie to be exa*min*ed on thes Articles & whervnto thei can aunſwer.

Impr*imis* to m^{r} Allen the firſt. ſecond, third, & fowerth. onli for him

Ite*m*. to Brian Ellam Richard Hudſon [*John Griges Carpenters Wm Botham Ralf Bett*es (stricken out)] & Wm Clarke plaſterers firſt & fyft.

Ite*m* to Henry Bett, & Gall ſcrive*ner*, 1. 6. 7. 8. 9.

[All the above witnesses were examined except Gall the scrivener. Their depositions now follow.]

DEPOSITIONS.

Ex parte Jacobi Burbage et Cuthb*er*ti Burbage defend*entum* verſ*us* Margaret*am* Brayne vid*uam* q*uerentem* Teſte exa*min*ato*re* p*er* Henr*icum* Johnes in Cancellar*ia* Exa*min*atorem/

Henrie Bett, of the p*ar*iſhe of St Leonardes in Shorditche, in the Countie of middl*eſex* gentelma*n* of the age of xlij yeres or ther-a'bout, ſworne and exa*min*ed the laſte daie of September in the

xxxiij^{ti} yere of the reigne of o^{r} Sovereigne Ladie Queen Elizabeth by vertue &c

1. To the firſt Interr. That he knewe John Braine when he was lyvinge, and that he knowethe the p*ar*ties Defendant*es* and Complayn*a*nte, & hath knowen them thes xiiij yeres & vpward*es*

2. 3. 4. To the ij. iij and iiij Interr*ogatories* he can not depoaſe

5. 6. To the v and vj Jnterr. he depoaſethe and ſaiethe, That he was not preſent, when the buildinge, latelie errected by James Burbege or his aſſignes, nere the Theatre were vewed/ but beinge in Companye wth the vewers therof, thei did eſtimate the chardge thereof, to arriſe to 220^{li} & vpward*es* the wch matter certaine worckmen alſo affermed; who did acknowledge that they had receyved a good p*ar*te therof, fortheir wo^{r}kmanſhip and other thinges; wherof, they alſo affermed, that nether Braines, nor his executo^{rs}, did paie to them any thinge. but what ſome of monye certainelie, the ſaid James Burbege did beſtoe, ether vpon the new buildinge of the Theatre, or vpon the repayringe of the ſame, this depon^{t} knowethe not of his owne knowlege, nor what monye he hath paid, ſince the deathe of Braine, but by the accompt*es* of the ſaid Burbege, the wch this depon^{t} hath often ſeene and coppied out, yt it ſett dowen. That the ſaid Braine and his executo^{rs}, did owe to him the moitie of 220^{li} beſtoed as is aforeſaid. And the moitie of 230^{li} paid by the ſaid Burbege for rent, and for repayring of the Theatre and the moitie of 220^{li} 13^{s} 4^{d}, paid by the ſaid Burbege, for the diſcharginge of bond*es* debt*es*, and other exſpences, ſynce the deathe of Braine, beſides the ſome of 135^{li} 1^{s}. the wch the ſaid Braine, by a noate vnder his owne hand, confeſſethe to haue receyved out of the Theatre, and to be accomptable for the ſame; but whither the ſaid accompt*es*, payem^{tes} & demand*es* of the ſaid James Burbege, be true or falſe, he ſaiethe he knowethe not; but he ſaiethe, that he is verie ſure that the noate, that the ſaid John Braine hath ſett downe, for the receipte of the 135^{li} 1^{s}, is the p*ro*per hand writinge of the ſaid Braine: And more to thes Interr he ſaiethe not/

7 To the vij Interr*ogatory* he ſaiethe, That ther was an Arbitrem[t] made, betwene Braine & Bvrbege in writinge, aſwell for the certaine diſpoaſinge, of the p*ro*fitt*es*, levied in the Theatre and Tenem[t*es*], as in directing the ſaid Braine, when, and how, ſuch ſomes of monye, as he the ſaid Braine had diſburſed, aboute the buildinge the ſaid Theatre, ſhuld be to him paid: for the certaintie wherof, this depon[t] referrethe himſelf to the ſaid arbitrem[t], only he ſaiethe, that nether the ſaid Braine nor his executrix the now comp[l] haue obſerved the ſame, nor by their owne ſpeches and affirmac*i*ons, neuer will p*er*forme the ſaid arbitrem[t], and further to this Interr*ogatory* he can not depoaſe of his owne knowledge/

8. 9. To the viij and ix Interr*ogatory* he depoaſethe and ſaiethe, That the ſaid James Burbege wth the conſent of John Braine did mortgadge the Leaſe of the Theatre, to one John Hyde the w[ch] was to him forfeited, who did thervpon arreſt the ſaid Burbege intendinge (as this depon[t] takethe it) to take the advauntadge therof, and to expell the ſaid Burbege and Braine, and to that end did ſend one of his ſervaunt*es*, to collecte and gyve order, that ſutch monye, or the beſt p*ar*te therof, as was receyved at the Theatre, ſhould be brought and paied to him, and becawſe he did not receyve ſutch ſomes of monye, in that wiſe, as was to his likinge, he the ſaid Hyde gave order to George Cloughe, father in Lawe to him the ſaid Hyde, to demaunde his monye, or to remove the ſaid Burbege out of the Theatre, by w[ch] meanes, the ſaid Cloughe did go to the ſaid Theatre, and threatened to remove the ſaid Burbege fro*m* thence, ſynce the deathe of the ſaid Braine (as this depon[t] remembrethe) And this depon[t] further ſaiethe, that for a ſome of monye the certaintie wherof he rememb[r]eth not, the ſaid Hyde, did ſell his title in the ſaid Leaſe, to Cuthbert Burbege one of thes defend[t*es*], at the payem[t] of p*ar*te wherof, this depon[t] was preſent, at ij ſeverall tymes, the w[ch] monye ſo paid to the ſaid Hyde, was the p*ro*per monye of the ſaid Cuthbert (as this depon[t] is p*er*ſwaded) and he beleeveth it, the rather, for that the ſaid Cutbert did then declare, that he was faine to borrowe p*ar*te therof the w[ch] he affermed he would not haue done, but only to haue

redemed and deliuered his father, from many encombraunc*es,* whervnto he and Braine, had rune them fealues into, about the faid Theatre, at wch tyme the faid Hyde likewife affermed, that yf one m^{r} Coape, had not written to him about the faile therof, to the faid Cutbert, that he never fhould haue had it, for that one m^{r} middelmor & his father in Lawe Cloughe, were importinat wth him for the fame/ And further to this Jnterr*ogatory* he can not depoafe, favinge that he well remembrethe, that the faid Hyde, hath often confeffed and fworne to this dępon^{t} that the mony by him Receyved at the Theatre was in his owne right, and nethe^{r} for intereft, nor by waye of Compofition of his principall debt, but what he now will fweare or afferme this depon^{t} knowethe not/ nor further faiethe to all the faid Jnterr*ogatories*/

[Signed] Per me Henricu*m* Bett

Gyles Allen of Hafelye in the Counte of Effex gent*leman* of the age of lviij yeres or therabout*es* fworn and ex^{d} the thirde daye of November in the yere aforefaid &c To the firfte Int*errogatory.* that he did verye well knowe John Braynes deceffed named in this Int*errogatory.*/ And knoweth all the p*ar*ties p^{lt*es*} and Defend^{t*es*}/ And faith that he knewe the faid Jo. Braynes fondry yeres before he dyed/ And hath knowen the p*ar*ties to this Sute about viij or x yeres/ but yong Burbage he hath not knowen but about ij° or iij yeres/

To the 2. that about xiiij or xv yeres paft as he now Reme*m*breth James Burbage one of the now deffend^{t*es*} did take A leafe of this depo^{t} for the, terme of xxj yeres of fome of the then voyd ground & Ruynous tenem^{tes} w^{t}in the p*rec*inct of Hallywell nere Shordych/ vpon part wherof the playing place called the Theater/ now ftandeth./ And faithe that nether the faid Jo. Braynes/ nor any other for him did ether make Sute to this depo^{t} at any tyme before the enfealing of the faid leafe, to be Joyned w^{t} the faid James Burbage in the faid leafe, nor to make the faid leafe, in truft to the faid James Burbage, to the vfe of the faid Braynes/ But faithe/ that in verye trothe the faid leafe was fuewed for/ by the faid Burbage & not ment any way to the faid Braynes

To the 3. that he ca*n*not now Remember how moche for an Incombe or ffyne for the ſaid leaſe he did receyve or was to Receyve of the ſaid James Burbage/ But he thinketh he had ſome therof in hand/ and A bonde for the paym^{t} of the reſt/ not fullye yet diſcharged/ the certenty how moche *ye*rof was payd in hand/ and yet is vnpayd/ he ca*n*not certenlye depoſe/ for that the ſaid Bonde is now remayni*n*g at his houſe in the cuntrye/ Of wch ffyne or Jncome the ſaid Jo. Braynes paid no penny to this depo^{t} for any thing he can Reme*m*ber/ nor p*ro*myſed to paye this Depo^{t} any part therof/ And ſaith that he never reconed or reputed any p*er*ſone or p*er*ſones whatſoever as his ten*a*nt of the p*re*miſſes ſyns the making of the ſaid leaſe but onlye the ſaid James Burbage/ And ſaith that the Rent wch this Depo^{t} receyved for the p*re*miſſes before the making of the ſaid leaſſe to the ſaid James Burbage/ was as he thinketh about xiiij^{li} by yere/ Marye he ſaithe that ſyns the making of the ſaid leaſe/ Cuthb*er*t Burbage the ſaid James Burbage ſonne/ did paye this Depo^{t} Rent for the ſaid p*re*miſſes how often he Reme*m*breth not/ ſaying vnto this depo^{t}/ that then he was this Depo^{tes} ten*a*nt of the p*re*miſſes/ by reaſone he had [*Redemned the ſaid leaſe his ffathers intereſt thereof* (stricken out)] the ſaid leaſe/ But ſhewed no aſſignem^{t} or other Conveyance to this depo^{t} made vnto him of the ſame

To the 4. that he doth not Reme*m*ber that the ſaid Johne Braynes payd this Depo^{t} Rent at any tyme/ for the ſaid p*re*miſſes/ And ſaith that he ca*n*not tell when the ſaid Braynes dyed/ But he ſaithe that he well Reme*m*breth that about vj yeres now paſt/ ther was owing this Depo^{t} p*ar*tlie for part of the ſaid ffyne or Jncome/ and p*ar*tlie for arrera*ge*s of Rent for the ſaid p*re*miſſes/ about ffyftie poun*de*s & vpwarde of the w^{ch}/ ſo moche as was payd *ye*rof was payd by the ſaid James Burbage & his aſſignes for any thing he now Remembreth/ But he ſaith ther is remayni*n*g & vnpayd of the ſame, the ſome of xxx^{li}/ at this daye/ Vpon the reſt of the Jnt*er*rogat*or*ies he is not ex^{d}/ by the direcc*i*on of the p*ar*ties Defend^{tes} And more he ſaith not/

[Signed] Gyles Aleyn

Bryane Ellam of Silverſtreete london Carpinter of the age of lviij yeres or therabout*es* ſworne and ex^{d} the xxv daye of ffebruarye in the yere aforeſaid &c To the firſt Jnt*errogatory* that he did knowe Jo. Brayne whille he lieved/ And knoweth all the p*ar*ties p^{l} and Defend^{t*es*}/ and hath known them about xiiij or xv yeres/

To the 5. that he was one emong*es* others/ that of late yeres did view the new buildinge*s* and the rep*ar*acions ſett vppe & done by the now Defend^{t*es*} or of one of them of dyvers decayed howſes and Roomes in hallywell by Shordiche wthout Biſſhops gate london/ taken of Mr Allen menc*i*oned in this Jnt*errogatory*. And ſaith that they were viewed twice/ And ſaith that in ther Judgem^{t}, the ſaid new buildinge*s* and rep*ar*acions in all manner of work*es* of the ſame/ could amount to no leſſe then about the ſome of CCxl, or CCxxx^{li}/ the charge wherof for any thing this Depo^{t} doth know or then did heare/ was the ſaid defend^{t*es*}/ or one of them/ And ſo hath this Depo^{t} and the reſt of the viewers therof ſett Down/ vnder ther handes/ and markes in A memorand*um* therof made in the defend^{t*es*} booke in Julye laſt paſt/ as by the ſame maye appere/ And further ſaith that the ſaid defend^{t*es*} or one of them haue beſtowed in further building & Rep*ar*acions of the Theater there [*& other the houſes in hollywell aforeſaid* (stricken out)] w^{t}in this vj or vij weekes paſſed/ to the value of xxx or xl^{li} as this depo^{t} dothe eſtymate the ſame/ And for any coſt & charges beſtowed vpon the p*re*miſſes or vpon any part therof/ ether by the foreſaid Jo. Brayne deceſſed before he dyed/ or by his Wyfe the now comp^{l} ſins his deceſſe/ he ſaith he can ſay nothing/ Only he Reme*m*breth that the ſaid Braine being p*ar*tener (as he tooke him) w^{t} James Burbage now one of the defend^{t*es*}/ of & in the premiſſes/ payd this depo^{t} for ſome work wch this depo^{t} did vpon the ſame p*re*miſſes before he dyed the ſome of xl^{s}, [*at fondrye tymes* (stricken out)]/ at the leaſt xiiij yeres paſſed/

Vpon the reſt of the Jnterr*ogatories* he is not ex^{d} by the dyrec*i*on of the ſaid defend^{t*es*}/ or of one of them/

[His mark] *I*K

Rychard Hudſon of Puddyng lane london Bricklayer of the age of xxxj yeres or therabout*es* ſworne and ex^{d} the daye & yere aforeſaid &c To the firſt Jnt*errogatory*. That he did know Johne Brayne deceſſed named in this Jnt*errogatory*/ And knoweth all the p*ar*ties p^{l} and defend^{tes}/ And ſaith that he knewe the ſaid Jo. Brayne about ij° yeres before he dyed/ And hath knowen the comp^{l} and the defend^{tes} about A doſen yeres/

To the 5. that he was one emong*es* others/ that in Julye laſt paſt/ did S*ur*vey and view the new building*es* and the rep*ar*ac*i*ons done by the now defend^{tes} or by one of them/ in & vpon certen decayd houſes & places in hallywell nere ſhordiche wthout Biſhops gate london/ And ſaith that in ther Judgem^{t} they could recone it to no leſſe then CCxl^{li} or therabout*es*/ as by A memorand*um* vnder ther hand*es* and mark*es* written in the defend^{tes} Book of the ſame/ may more plainely appere/ And further ſaith that the ſaid defend^{tes} or one of them haue ſins that view beſtowed in further building & repairing of the Theater or playhouſſe there/ wherin he this depo^{t} was one of the workmen/ to the value of xxx^{li} or therabout*es*/ And ſaith that he ca*n*not tell what ſome of money the ſaid Brayne/ in his lyf tyme or his wydow the now comp^{l} ſins his deceſe paid for or towardes the building or Repayring of the ſaid Theater/ and other the p*re*miſſes/ But he ſaith that he did heare ſaye, that the ſaid Brayne/ and James Burbage now one of the defend^{tes} were p*ar*teners together of the ſame Theater & other the p*re*miſſes/

Vpon the reſt of the Jnterr*ogatories* he is not ex^{d} by the dyrec*ci*on of the defend^{tes} or of one of them./

[Signed] Richard hudſone

Will*ia*m Clerke of Mugwellſtreete w^{t}in Cripple gate london plaſterer of the age of lxxij yeres or therabout*es* ſworne & ex^{d} the daye and yere aforeſaid &c To the firſt Jnt*errogatory*. that he did not know Jo. Brayne named in this Jnterr*ogatory*/ nor his wydowe the now Comp^{l} and of the ij° defend^{tes} he knoweth

but James Burbage the ffather/ and hath known him about xiij or xiiij yeres/

To the 5. that he was one emonge*s* others, that at the Requeſt of the ſaid James Burbage, did in Julye laſt paſt view the new buildinge*s* and repa*r*acions of certen decayed howſes in hallywell nere ſhordiche/ w*t*out Biſſhops gate london/ holden of one M*r* Allen there/ and they did judge in ther conſcience that the charges of the ſame did amount to no leſſe then CCxl*li* at the leaſt/ as they did then vnder ther hande*s* and m*ar*ke*s* ſett down the ſame in A Memorandu*m* wrytten in the defend*antes* booke as may appere by the ſame/ And to the reſt of this Jnterro*gatory* he ſaith he ca*n*not certenlye depoſe/

Vpon the reſt of the Jnterro*gatories* he is not ex*d* by the direcc*i*on of the defend*tes* or of one of them/

[His mark] +

BURBAGE *v.* BRAYNE

Idem, Bdl. 226, No. 10. Michaelmas, 33 and 34 Elizabeth, and Trinity, 34 Elizabeth (1591–92).

[Two skins of Interrogatories, one of them being for Hynde alone, attached to seven paper sheets of depositions.]

INTERROGATORIES

Jurata coram me
Thoma Legg 8° Maij 1592
Willms James Jurat*us*
25° Julij 1592 cora*m* Jo. Hone

Articles to be mynyſtred to Ellyn Gaſcon late, wief of W*m*. White [*James Norman* (stricken out)], Henry Bett, [*John Meade, Thomas Rumney* (stricken out)], John Hynde and others vpon the parte and behaulf of James Burbadge Complayn*ante* againſt Margaret Brayne widdoe, and Rob*er*t Myles Gouldſmythe defend*tes*.

1. **Imprimis** did yo[u] knowe John Braines whileſt he lyued. And whither do yo[u] knowe the parties plaintife & defend[tes] And how longe haue yo[u] knowen them.

2. **Item** what ſome of monye did the ſaid John Braines and Rob*er*t Myles owe to Noble, or White. And for what cauſe was the ſame due. And whither was yt for Tymber and certaine worcke & frames errected in the Inn called the George in whitechappell. And whither did the plaintif Burbage become a ſuertie for the ſame. Yea or no.

3. **Itm** did not the ſaid Braines and Myles promise to the ſaid white. That he ſhuld diſpoaſe haue and hould a Myll howſe ſcituat in the ſaid Inn vntill he had levied the ſaid debt at v.[li] yerlie. Or els that the ſaid White ſhuld haue the rent of v.[li] yerlie out of the ſame Myll howſe. And whither did the ſaid Myles and Braines ſpeake to yo[u] to entreat the ſaid White to accept the ſame. And how came yt to paſe that the ſaid white had nether the Mylhowſe nor rent.

4. **Item** was not the ſaid white offended therw[th]. And did not he thervpon take out p*roces* to Impriſone the*m* and ther ſureties. And whither did the ſaid defend[tes] entreate the Compl[t] to become bound in a Recognizance or ſtatute for the true payem[t] of the mony accordinge to an order then taken. And whither did the ſaid white aſſigne and ſett ouer to the Compl[t] & to one Garden*er* the Bonde of the ſaid Myles, wth a le*tt*re of Attorney to ſue them yea or no. And who now hath the ſame bond & le*tt*re of Attorney. And whither did the defend[tes] p*ro*miſe to diſchardge the p[l] therof

5 **Item** whither do yo[u] knowe the hand writinge of the ſaid John Braine. And of Rob*er*t Myles. And whithe[r] is this le*tt*re here p*re*/*e*nte the proper hand writinge of the ſaid Myles. And what ſome of mony did the ſaid Myles and Braines, or Myles him ſelf, ſhewe yo[u] in ther Accompt*es* or confeſe that the plaintif did

owe to them, as paid by them for him to one John Hynd. And whither did thei or any of them declare to yo^{u}, that the plaintif had paide to them or any of them all ſutch ſomes of mony as had byn paid to the ſaid Hynd for him. And whither did Thomas Rumney ſubſcribe this Bill as witnes that the mony therin expreſſed was paid for the diſchardge of the ſaid Myles. yea or no. And what can yo^{u} Roger Saunders ſaie therin

6. **Itm** whither is this Bill of Accompt the proper hand of John Braine. And whither was the ſame written after the Award made betwen the p^{lt} and the ſaid Braine. And what haue yo^{u} herd the ſaid Braine ſaye concerninge the ſaid Arbitrement. And whither did he accompt the ſame to be diſſolued, & not to be *per*formed. And what reaſon had he ſo to ſaie And whither is the ſome of monye therin expreſſed that wch the defend^{tes} do challendge as laid out vpon buildinge of the Theatre by John Braine more then the plaintife beſtoed. Yea or no.

7. **Item** what and how manye deed*es* of gift*es* haue yo^{u} knowen or haue herd That John Braine hath made of his goodes and Chattells. To whom haue the ſame byne made. How longe ſythen, and for what conſideracion. And whither were ther any ſutch made ſythence the date of the ſaid will & Teſtament of John Braine. And whither did the ſaid Margarett Braine notwthſtandinge the ſaid deed*es* of gift, and will, go about to take l*ett*ers of Adminiſtrac*i*on of the goods and Chattells wch app*er*teyned to her ſaid Huſband. And what was the cawſe ſhe p*ro*ceded not therin as yo^{u} thincke And whither do yo^{u} thincke that yt was the meaninge of Braines at his deathe, to make Myles a witnes of his Wil and laſt Teſtament. Yea or no.

8. **Item to what** vallewe or ſome of monye doth the bond*es* appere to arriſe vnto, the wch Burbage hath diſcharged ſythence the deathe of Braines wherof the ſaid defend^{t} ought to haue paid a Moitie. Or what ſome of monye haue yo^{u} herd, that the ſaid Burbadge hath paid, or is to paie for Braines, ſythenc his deathe.

And what may he inſtlie clayme in yor conſcience of her towardes the ſame. Or what may ſhe duelie challendge of him the Compl^{t} by reaſone of the Theatre. declare yor knowledge therin, And whither haue yo^{u} herd ther differences or Accomptes betwene them. Yea or no.

9. **Item** how longe is yt ſynce That the ſaid Braines and Myles did abſente them ſeaulues for their Credito^{rs}. And how mutche monye did thei then owe. And whither were thei ſo indebted for any cawſe concerninge the Theatre. to yor knoweledge or as yo^{u} haue herd.

10. **Item** what ſome of monye did Braines confeſe to yo^{u} that he receyved out of the Theatre. And whither did he ſaie that the ſame did arriſe to a greter or leſſer vallewe, then that wch he laid out, about the buildinge of the ſaid Theatre. And whither do yo^{u} thincke, that Braine did rune into Bondes and Credite for thinges about the ſaid Theatre, and imployed the monye he receyved ther, about other affaires. And that he neuertheles imputed that the ground of his hinderance and loſe, was by the Theatre and the buildinge therof

11. **Item** what thinge or matter Materiall do yo^{u} knowe or can yo^{u} declare concerninge the ſomes of monye by Braine diſburſed aboute the Theatre in his lief tyme Or by her the defend^{t} ſythence his death. Or of or concerninge the will of the ſaid Braines. And the deedes of gift by him made. And for what vſe or pourpoaſes the ſame were made. And who maynteyneth the ſutes of the ſaid Margaret, And for what conſideracion. declare yor knoweledge therin. And how often to yor knoweledge is the ſaid Robert Myles indighted for comon Imbarracie & Adultri or as yo^{u} haue herd, And whither was he called before the Coroners Inqueſt for the death of Braine. Yea or no/

NOTE TO EXAMINER

[This note is attached in front of the interrogatories to the previous set of depositions, No. 9, in this same bundle 226, but belongs to the present set filed just after it and numbered 10.]

A Briefe noate for the eaſe & ſpede of the Examiner, ſhewing how many Articles are to be obiected to each p*ar*tie, to be exa*min*ed one thes Articles, & wherto thei can aunſwer.

+ Impr*imis* to Ellyn Gaſcone. 1. 2. 3. 4.
Item to James Norman. 1. 2. 3. 4. 5. 6. 7. 11.
+ Item to Henry Bett. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11.
+ Item to [*John Mead* (stricken out)] Mr Will*ia*m James. 1. 5. 6. 7. 9. 11.
Item to [*Thomas Ramey* (stricken out)] and Rog^r^ Saunders. 1. 5.

[Of the above witnesses, only those were examined against whose names the examiner placed a cross, as will be seen by comparing with the depositions themselves.]

INTERROGATORIES TO HYNDE

John Hind Jurat*us*
24 Julij 1592
Edw Hank

Interrogatories to be miniſtred vnto John Hinde on the behalf of James Burbage Plaintif againſt Margaret Braine widdow and Robert Miles bear Clerk def

Impr. whether did yo^u^ John Hinde knowe one John Braine in his lief tyme, and whether do yo^u^ now know the partie plaintif James
1. Burbage yea or noe./

Itm whether did yo^u^ John Hinde about xiij yeares paſt in Anno 1579. the xxiij^th^ of June abowt twoe of the Clock in the afternoone
2. ſend the Sherif his Officer vnto the Croſkeys in gratious ſtreet

being then the dwelling howſe of Richard Ibotſon Cittizen and Bruer of London, and ther by vertue of *pre*cept to attache the bodie of this Complaynt, for the ſome of ffyve poundes one ſhillinge and a pennye wch you John Hinde had Recouered for coſtes & Charges in lawe againſt the ſaid John Braine & the ſaid Complt by a Niſi prius out of Mates Benche at Weſtm*in/ter* tried in the guildhall in London, And whether did this Complt James Burbage ſatiſfie and paie vnto the ſaid Officer the ſaid ſome of vli. is. id. to yor vſe, And whether receaved you the ſaid money of the ſaid Officer yea or noe/.

DEPOSITIONS

Ex parte Jacobi Burbage q*uerentis* verſ*us* Margaretam Brayne vid*uam* et Rob*er*tum Myles defen*dentes* Teſte exa*min*ato*re* per Henr*icum* Johnes in Cancellar*ia* Exa*min*atorem/

Henry Bett of the p*ar*iſhe of St Leonardes Shorditch, in the Countie of Midd*lesex* gen, of the age of xlij yers or theraboute, ſworne and exa*min*ed the Laſte daie of Septembr, A° 1591 in the xxxiijti yere of the raigne of our Sovereigne Ladie Quene Eliz &ct,

1 To the firſt Interrogatorie, that he hath knowen the Complt. James Burbege, about xiiij yers, and hath knowen the ſaid Rob*er*t Myles, and Margaret Braine the defendtes, as longe, and that he well knewe John Braine whilſt he lyved, by the ſpace of many yeres

2 To the ſecond iij and iiij Interr and to the matters in them Conteyned, this depont ſaith. That he the ſaid John Braine or Rob*er*t Myles, or both of them, were indebted to one Noble a Carpenter, for a frame for a howſe, & certaine tymber beſtoed about the Inn, called the George in white Chappell, the certaine ſome wherof he remembrethe not, the wch debt one Wm white demaunded of them, by reaſone that he had taken to wief, the executrix or Adminiſ-

tratrix, of the goods of the ſaid noble, And did ſue the ſaid Braine for the ſame, in her Ma^tes co^rt called the kinges benche, in wch action the ſaid Burbege the Compl^t, became baile, wth others; and therin were overthroen & condempned/ whervpon aſwell the ſaid Braine, as the ſaid Myles, did entreate this depon^t. to travell to the ſaid white, who was then this depon^tes Landlord, to take ſome reaſonable order therin, & by the appointm^t, of the ſaid Braine & Miles, this depon^t. did offerr to the ſaid white, the rent of a Myll howſe, beinge v.^li *per annum,* or therabout; errected in the ſaid Inn, to be yerlie paid to the ſaid white vntill the ſaid debt, were levied, wherby the ſaid Burbege might be diſchardged of the ſame debt; the wch aſwell the ſaid Miles, as the ſaid Braines, promiſed alwaies to do, and to ſaue him the ſaid Burbege harmeles therin, but for that the ſaid v^li. rent, nor the ſaid myll howſe were not conveyed, ouer, to the ſaid white; nothinge was then done nor any concluſion made in the matter. by wch meanes the ſaid White, did afterwardes pourſue the ſaid Braine and Burbege, wth others, the ſuerties in the ſaid action, & had ſome of them at the laſt in priſone. But for that the ſaid Braine was then dead; an order was taken by the ſaid White, wth the ſaid Margaret Braine, and wth Burbege and one Gardener, that thei ſhuld be bound in a ſtatute, or Recognïſaunce to the ſaid white, for the paym^t of a certaine ſome of monye, at certaine tymes appointed, in reſpecte of the ſaid debt; the wch bond was ſo made, and the bonde wherin the ſaid Myles and Braines, or one of them was firſt bound in vnto the ſaid noble, for the monye for the ſame frame, was aſſigned and ſett ouer wth aucthoretie, from the ſaid white, to the ſaid Burbege, and the reſt, to ſue the ſaid Miles for the ſame yf in caſe he did not yeld ſome monye for the ſame frame, for that the ſame came only to his handes, after the death of Braine, the wch bond and aucthoretie (as this depon^t hath herd ſaie) was deliuered to the ſaid Myles by the ſaid margaret, to prevent the ſaid Burbege therin, and further herin he ſaiethe not

To the v Interrogatory this depon^t ſaiethe, That the lettre or writinge produced & to him ſhewed at the tyme of this his exami-

nacion, is the proper hand writinge of the ſaid Robert Miles written to the ſaid Burbege, the now Compl^t. this he knowethe to be true, for that he this depo^t at the requeſt of the ſaid Burbege, who was moved therat, did go to conferr wth the ſaid miles, about the matters therin./ who did then confeſſe, that the ſame was his hand, & thate he did demaunde, the Moitie of the xxvj^li x^s i^d. of the ſaid Burbege/ paide to the ſaid John Hynd in the Interr named/, by force of a precept and execucion laid on him the ſaid Myles as a ſuertie for Braines, yt beinge alſo, the debt of the ſaid Burbege; acknowledginge alſo, that he had receyved vj^li of the ſaid Burbege towardes the ſaid moitie, but at what tyme the ſaid letter was written, this depon^t remembrethe not, but he thinckethe yt was ſince the dethe of Braine, and this depon^t further ſaiethe That in the life tyme of the ſaid Braine, the ſaid Myles and Braines, reaſoning together about dyvers matte^rs, in ther accomp^tes, befor this depon^t, he the ſaid Myles did chardge the ſaid Braine that he had ſuſteyned dyvers troubles, for him, and recited his trouble for the ſaid debt, At wch tyme, the ſaid Braine did then afferme, before the ſaid Miles, That he for his parte had paid to the ſaid Miles, to ſatiſfie Hynd, the one half of the ſaid monye paid to Hynd & that Burbege, whom he called his brother, had ſatiſfied the other half alſo, and thervpon he produced a Booke of Reconinges betwene them importinge aſmutche, the w^hc the ſaid Miles, did not then contradict, but rather confeſſed, only reporting and ſtanding vpon his trouble, for the ſame. and more in this matter he now remembrethe not, but refferrethe him ſelf to his examinacion taken in that matter in London.

To the vj Interr this depon^t ſaiethe, That the noate and ſomutch of the writinge therin vndefaced now produced and to him ſhewed, at the tyme of this his examinacion, is the proper hand writinge of John Braine, the wch he well knowethe, for that he had often ſene him write, and that he knowethe that Burbege did demaunde the ſame ſomes of monye, in the ſaid noate, confeſſed to be by him the ſaid Braine Receyved, beinge 135^l i^s wth other ſomes afterwardes by him Receyved, the wch he refuſed to yeld,

aunſweringe in the preſence of this depon^t^, to the ſaid Burbege, that he would deteyne the ſame towardes the payem^t^ of that ſome of monye, by him laide out, towardes the firſt buildinge of the Theatre, the wch the ſaid Braine, confeſſed in A° 1582 to be but 239^li^ — 6^s^ — 6^d^ for his p*ar*te in all/ And all be it, the ſaid deteyner, was contrarie to the award, wch was made betwene them in that matter, yet he affermed, that he neyther could nor would p*er*forme the ſame award: all this matter this depon^t^ knowethe to be true, for that he hath byne often tymes required, by both the ſaid p*ar*ties, to heare ther differences, and to write ſuch matter as thei thought fitt to be equall betwene them, and further in this matter he ſaiethe not ſaving that he beleevethe that the noate and name of Rumneys, p*ro*duced, to be the p*ro*per hand wryting of the ſaid Rumney/

To the vij Interr he ſaiethe, That yt was a Comon thinge, wth the ſaid John Braine, to make deed*es* of gifte of his good*es* and Chattelles, the reaſone was as this depon^t^ taketh yt, to p*re*vent his Credito^rs^ aſwell before buildinge of the Theatre, as ſince, for he beinge redie to be impriſoned for debt he would prepare ſutch ſafetie for his good*es,* as he could/ by thoſe deed*es,* who [sic] ſomtyme were made to one Tomſon, and ſomtyme to one Gard*en*er, and as this depon^t^ hath herd to one m^r^ Aſhebournham, and others: but the reaſon whi thei do not challenge the ſame good*es,* accordinge to their gift*es,* this depon^t^ knowethe not, and he further ſaiethe, that he is perſwaded in his conſcience, that yt was not the meaninge of the ſaid Braine at the tyme of his deathe, to make any will, nor to call Myles then, to be a witness therof, for that at his deathe (as this depon^t^. hath herd it credeblie reported) he charged Miles wth his deathe, by certaine ſtripes geven him by Miles who was afterwardes, called by the ſute of the ſaid Margeret, befor an enqueſt held by the Crowner for the Countie of Midd*lesex,* for the enquirie therof. and alſo for that the ſaid Braine did walke at libertie, wth the ſaid Miles by licence of ther Credito^rs^, by force of certaine tolleracions to them made, and otherwiſe.

To the viij Interr and to all the matters in it conteyned, he can ſay no otherwiſe than he hathe ſaid and depoaſed, beinge exa*m*i*n*ed vpon the p*ar*te and behaulf of the ſaid Burbege, beinge defend^{t} at the ſute of the ſaid Margaret Braine, ſavinge that he thinckethe, that Braine, did Receyve more monye by a grete ſome then he laid out in the Theatre, and that yt could not be his vndoinge for he beleevethe, that he was not of ſuch abillitie, as the ſaid Miles reputethe him to haue byne, before the buildinge of the Theatre, the rather for that he had made one or more deed*es* of gift*es* of his good*es,* ether before, or in the tyme of the buildinge therof and further to this Interr ſaieth not

To the ix he ſaiethe That true it is he this depo^{t} at the Requeſt of the ſaid Brayne did write certaine peticions, for the ſame Braine and Myles, to crave favore at ther Credito^{rs} hand*es,* to who*m* thei did owe about viij or ix C^{li}, the wch was not (as he takethe it) for any matter concerninge the Theatre, but for Matters concerninge the Inn called the george in white chappell/ and more to this Int he ſaith he can not certainlie depoaſe/

To the x and xj articles this deponent ſaieth, That Braine would never plainlie declare, how mutch he had receyved concern*i*ng the Theater, for that he alledged, yf the trve vallew and ſome; were knowen that yt would hardlie be allowed him but yt ſeemed by his taulke, that he had gayned & receyved a grete deale of monye, more then he had diſburſed: But after that certaine ſutes were moved betwen one Mr Peckham, and Giles Allen, about the intereſt and title of certaine Land in Hollywell, wherof the Theatre was p*ar*cell, the ſaid Braine did take and keepe the moſt p*ar*te of that he did receyve contrarie to the foreſaid arbitrem^{t}, and ſemed to be careles of the ſame Leaſe, the rather, for that yt was mortgaged; and would often tymes confeſſe, that yf the ſaid Leaſe might not be redemed wth the p*r*ofittes therof, that yt ſhould neuer be redemed for him/, and made careles and inconvenient bargaines, about the ſaid leaſe, after it was mortgaged; and ſaith that befor the ſaid Leaſe was conveyed to Cuthbert Burbege, the ſaid

John Braine died, after whoſe death the ſaid Margaret did take vp ſome monye at the plaie howſe, called the Curtine, but by what right or by whoſe ſufferaunce, ſhe ſo receyved the ſame, this depon^{t} knowethe not, and to that poinct of thes Interr about the mayntenance of the ſaid Margaret Braine in theſe ſutes, this depon^{t} ſaiethe, That he can ſay nothinge but he hath heard yt reported, that the ſaid Myles hath made great boaſt, that it is he, that will maynteyne and defend her herin, al be it ſhe did procure his trouble before the coroners enqueſt and did impute to him the deathe of her huſband, and procured him to be indighted as a comon barreter, but of his owne knoweledge herin, he knoweth nothinge, nor further, Matter to thes Interr to his p*re*ſente remembraunce can declare/

[Signed] Per me Henricū Bett.

Elene Gaſcoyne wyfe of Percyvall Gaſcoyne of london peawterer of the age of l^{tie} yeres or theraboute*s*/ ſworn and exd the viij Daye of Maye in the xxxiiij yere &ct

To the firſt/ Interr/ that ſhe knew Jo. Braynes deceſſed/ And knoweth the now comp^{l} James Burbage/ And knoweth Margarett the ſaid Jo. Braynes wydow, and alſo Robe*r*te Myles, the nowe defend^{tes} in this cauſe/ and ſaith that ſhe hath knowne the now comp^{l} James Burbage about a dozen or xiij yeres and the ſaid wydow braynes about the ſame ſpace/ but for the other defend^{t} Myles/ ſhe ſaith that ſhe hath not known him but about x yeres/

To the 2. Int. that as ſhe dothe Reme*m*ber/ the ſaid Brayne & Myles did owe to this depo^{tes} late huſbande Noble/ the ſome of xx^{li} or theraboute*s* vpon ther bonde/ and when the ſaid Noble dyed/ the ſaid debt grew due to her ſecond huſband Whyte in the right of this depo^{t}/ as Executrice of her huſbandes/ Nobles will/ And ſaith that the ſaid money grew due for Carpentrye wo^{r}ke at the Jn w^{t}out Allgate called the George/ wch money/ being vnpayed in her huſband Whytes dayes/ the ſaid whyte cauſed the ſaid Brayne to be areſted for the ſame/ and then vpon compoſici*o*n and a daye fixed for the paym^{t} therof/ James Burbage the

now comp[l]/ and one Gardener were ſuretyes for the paym[t] of the ſame/ and of more money w[t] all/

To the 3. that ſhe doth well Reme*m*ber/ that ther compoſic*i*on for the paym[t] of the ſaid debt to the ſaid whyte was v[li] by yere/ till the ſame debt were fullye payd/ But out of what place/ or thing/ it was to be payd/ ſhe ſaith ſhe doth not ſo Reme*m*ber/ And to the reſt of this Jnt ſhe ſaith ſhe ca*n*not depoſe/

To the 4. that true it is bothe ſhe this depo[t] and her ſaid huſband Whyte made many Jo[r]neys from ther houſſe in S[t] Johnes ſtreet to the place called the Theater beyond Shordiche/ to the ſaid Brayne/ for the ſaid money/ but had it not w[t] the w[ch] this depo[tes] ſaid huſband Whyte was moch offended/ and in the end ſewd the ſaid Suretyes for the ſame/ Whervpon the ſaid Brayne & his ſuretyes did compound the matter w[t] the ſaid Whyte/ & for the p*er*formaunce of ther compoſic*i*on/ they became bound to the ſame Whyte ether in A Statute or Recogniſaunce/ But whether her ſaid huſband Whyte/did aſſigne & ſett over to the ſaid James Burbage/ or to any ells, the bond wherin the ſaid Brayne and Myles ſtood firſt bound for the paym[t] of the money w[t] A l*ett*re of Atto[r]ney to ſew them thervpon/ſhe ſaith ſhe ca*n*not certenlye depoſe/ Nor more can ſay to this Jnt/
Vpon the reſt of the Jnterr*ogatories* ſhe is not ex[d]/ by the direc*c*ion of the ſaid James Burbage the now comp[l]/

[Her mark] ✗

Johne Hynde of london haberdaſſher/ of the age of lxiiij yeres or therabout*es* ſworne and ex[d] the xxiiij daye of Julye in the yere laſt aforeſaid &ct

To the firſt Jnt myniſtred vnto him/ that he knew Johne Brayne/ named in this Jnt whille he lieved/ and knoweth James Burbage the now comp[l]

To the 2. that true it is he this depo[t] about xiij yeres paſt/ w[ch] as he thinketh was in Anno Dni/ 1579. and as he taketh it/ about

the xxiijth Daye of June in the after noon/ did cauſe one Saunders/ then one of the Se^{r}iaunt*es* at mace to the Shyreff of london/ or his yeomen/ to arreſt and attache the body of the now comp^{l} as he came down Graces ſtreet towardes the Croſſe Keys there/ to a Playe/ for the ſome of fyve pounds & xiij^{d}/ the wch this depo^{t} by Ordre of lawe had before that Recovered for charges in Sute of law againſt the ſaid Johne Brayne/ and the now comp^{l}/ by a niſi prius tryed in the Guilde Halle/ london And the ſaid Saunders did accordinglie execute his p*re*cepte, vpon the bodye of the ſaid comp^{l}/ And whether it was that daye/ or how ſoon after/ he doth not now Reme*m*ber/ the ſaid Saunders came to this depo^{t}/ and payd vnto him/ the ſaid ſome of v^{li} xiij^{d} in diſcharge of the ſaid Recou*er*ye/ And this is as moche as he ca*n* ſaye to theſe Jnt/

[Signed] by me John Hynd

Will*ia*m James of Chapell Iſode in the Countie Dublyn w^{t}in the Quenes Ma^{tes} Realme of Jreland/ gent of the age of xlj yeres or therabout*es* ſworne & ex^{d} the xxiiij daye of July in the yere aforeſaid &ct

To the firſt Jnt. that he did knowe John Braynes deceſſed named in this Jnt And knoweth all the p*ar*ties p^{l} and defend^{t}/

To the 5. that he doth think he knoweth the hand wrytinge of the ſaid Jo. Braynes/ p*ar*tlie by waye of wryting of his owne name to ſome Acquitta*n*ce or Acquitta*n*ces/ made to this depo^{t}/ And p*ar*tlie for that about Anno 1579 he ſaw the hand of the ſaid Jo. Brayne to a dede of gyft p*ro*duced by one Will*ia*m Thomſon of Ratcliffe before this depo^{t} when he was the lord wentwo^{r}ths bayliffe of his Mano^{r} & lib*er*tyes of Stebneth/ this depo^{t} being then to extend the good*es* of the ſaid Jo. Braynes/ at the Sute of one Jo. Hynde/ for xxv^{li} x^{s} i^{d} debt & damag*es* or therabout*es* Recou*e*red againſt the ſaid Jo. Brayne/ wch Dede of gyft (as this depo^{t} then took it) was made by the ſaid Braynes to the foreſaid Will*ia*m Thomſon/ that maryed the ſaid Braynes wyves Siſter/

rather of p*ur*poſe to defeat and defrawde the ſaid Execu*ti*on/ and others that afterward*es* came againſt him/ then of troth or true mean*ing*/ And therfore this depo*t* wold not allowe of the ſaid dede/ But to the handwryting of Robert Myles/ he knoweth it not And more or further to this Jnt. he ſaith he ca*n*not depoſe

To the 6. that he doth verelie think in his conſcience/ that the Bill of Accompte ſhewed to this depo*t* in a Booke of Recon*ing*es at the tyme of this his Exa*min*ac*i*on/ is the p*ro*per handwryting of the ſaid Jo. Braynes/ But whether the ſame Bill was written after/ or before any Awarde paſſed betwene them/ he ſaith he ca*n* not tell/ Nor more can ſaye to this Jnt./

To the 7. that he ca*n*not tell/ nether hath he heard of any mo Dedes of Gyfte that the ſaid Jo. Brayne made to any other p*er*ſone or p*er*ſones of his good*es* and chattells other then he hath before ſaid in the 5. Jnt. And to the reſt of this Jnt. he ſaith he ca*n*not depoſe/

To the 9 that he ca*n*not tell how long it is ſyns/ that the ſaid Jo. Braynes/ and the foreſaid Robert Myles did abſent them ſelf*es* from ther Credito^{rs}/ nor how moche money they owed ther Credito^{rs}/ nor how ther debt grew/ But he ſaith that he well Remembreth that in Anno 1582 or therabout*es*/ he this depo^{t} being Bayliff of the Mano^{r} and lib*er*tyes aforeſaid/ ther was Dyrected vnto him/ at the Sute of one Anne Wilbram wydowe/ one Exec*uc*ion of an C^{li} debt againſt the body of the ſaid Jo. Braynes/ But after long travell and ſerche made for the ſaid Jo. Braynes/ he this depo^{t} nor any vnder him could fynde him/ by reaſone wherof/ he this depo^{t} was dryven to make his Reto^{r}ne of non eſt inventus/ And further ſaith that about A° xxv^{to} of her ſaid Ma^{tes} Reigne/ ther was another Execuc*i*on Directed vnto him/ againſt bothe the ſaid Jo. Braynes/ and the foreſaid Robert Myles at the Sute of one Jo. Banberye gentlema*n* for lxxx^{li} debt/ by vertue wherof this depo^{t} was not onlye to extend ther goodes but alſo to attache ther bodyes/ but by reaſon they both abſented

them ſelf*es*/ he this depo^{t} made the lyke Reto^{r}ne for ther bodyes as aforeſaid/ But inquyred of ther good*es* to that value/ and certifyed the ſame accordinglie/ And what other ſome or ſomes of money they owed to any other p*er*ſone or p*er*ſones at that tyme/ other then he hath before ſaid/ he ſaith he knoweth not but he thought them to be gretly in debt for that Braines afterward told him this depon*ent* that they had a proteccion vnder Sr Water Waler knight/
Nor more can*n* ſaye to this Jnt./

To the reſt of the Jnt. this depo^{t} ſaith that he can*n* ſay nothing Nor more ſaith in this matter/

[Signed] W James

BRAYNE *v.* BURBAGE

Idem, Bundle 228, No. 11, Hilary, 34 Elizabeth (Jan.–Feb., 1591/2.).

[One skin of interrogatories, with a small paper note pinned to it, *ut infra.* Skin good, down to Interrogatory 12; bad from there on, some portions nearly illegible. Skin thonged to 12 large sheets of paper, usual deposition size, bearing signed depositions, *ut infra.*]

INTERROGATORIES.

Intergatories to be miniſtred on the p*ar*te & behalf of Margarett Braynes widowe Complaynant agaynſt James Burbage Cuthbert Burbage & others defendant*es*

1 **Imprimis** whether doe ye knowe the p*ar*tye playntif, & the p*ar*ties defendant*es* yea or no, Yf ſo then, whether doe ye knowe of any ſute Com*m*enſed by the ſaid Margarett Braynes againſt the ſayd defendaunt*es* of & Conceareinge her tytle vnto the moitye of the Theato^{r} and all the howſes, and other land*es* and tenementes therevnto belonging in the p*ar*iſhe of Saynte Leonard*es* in Shordyche in the Countye of Midleſex, yea or no.

2 **Item** whether doe ye knowe of your owne knowledge, or have heard ſaye, that divers Controverſies and Contentions weare betweane the ſayd James Burbage and one John Brayne the late houſbande of the ſayd Complaynant nowe diſceaſed touchinge the ſayd theato^{r}. And whether did not they ſubmitt themſelves vnto the arbitrament of Certayne p*er*ſones for the pacificatione of all matters betweane them. And whether did not the ſayd arbitrators awarde that the ſayd James Burbadge hys executo^{rs} and aſſignes ſhoulde enioy the one moitye of all the p*ro*fitt*es* of the p*re*miſſes And the ſayd John Brayne hys executo^{rs} and aſſignes ſhoulde enioye the other moitye of the proffett*es* yea or no.

3 **Item** whether did not they alſo awarde that yf occaſione ſhoulde be to morgage the p*re*miſſes for the borrowinge of money to pay debt*es* or for the p*er*fourmeinge of any neceſſarye thinge Concearneinge the Theato^{r}, that then bothe they ſhoulde ioyne in morgage, and the money com*m*inge and ryſinge of the p*ro*fitt*es* of the ſaid Theato^{r} to goe to the redemptione of the ſaid morgage yea or no.

4 **Item** wheather did not the ſaid James Burbadge and the ſayd John Brayne accordinge to the ſaid arbitrament morgage the ſayd Theato^{r} and other the p*re*miſſes vnto one John Hyde Citizen and Groſer of London for the ſome of one hundrede twentye and fyve pound*es* or there about*es* to be repaid at a Certaine day and tyme in the ſayd morgage lymitted ye or no.

5 **Item** whether was the ſayd Theato^{r} and other the p*re*miſſes forfatid vnto the ſayd John Hyde yea or no, for that he was not payed hys money at ſuche dayes and tymes as was by the ſaid morgage agreaed vppon Yea or no.

6 **Item** what ſomme or ſommes of money was payd vnto the ſayd John Hyde by the ſaid John Brayne and the ſaid James Burbadge in the lyf tyme of the ſaid John Brayne before the forfature of

the p*re*miſſes and what ſom*m*e or ſom*m*es of money was left vnpayed at the tyme of the death of the ſaid John of the aforeſayed ſomme, fo^r the wch yt was morgaged for & what ys paid ſythens his death.

7 **Item** whether did not the ſaid John Hyde often tymes ſaye vnto the ſaid John Brayne and the ſaid James Burbage and vnto the now Compl*ainan*t and to others that if he were payde his monye that was dewe and conſideracion for the forbering of hit that he woulde never take any advantage of the ſaid forfature/

8 **Item** whether did not the ſaid John Hide promiſſis vnto the ſaid Compl*ainan*t that yf he were payde his monye that then he woulde aſſure the p*re*miſſes vnto the ſaid Compl*ainan*t and vnto the ſaid James Burbage becauſe he had hit from the huſbonde of the ſaid Compl*ainan*t and the ſaid Burbage and nowe by the death of her huſbonde his p*ar*te belongeth to the ſaid Compl*ainan*t and the rather to for [sic] that he was payde all his monye ſavinge Thyrtye poundes or thereaboutes in the life of the ſaid Brayne/

9 **Item** whether did not the ſaid Margarett Brayne offer to paye the ſaid thyrtye poundes vnto the ſaid John Hyde if he woulde reaſſure the p*re*miſſes over to her and if he woulde ſo doe ſhe woulde be bounde to convaye over a moitye therof vnto the ſaid James Burbage in ſaying that althowgh Burbage woulde deſeate her of her righte yet ſhe woulde not ſo deale with him And what aunſwer made the ſaid John Hide thervnto/

10 **Item** whether did not the ſaid James Burbage of purpoſe detayne the p*ro*ffites of the p*re*miſſes in his one handes of purpoſe to make a forfature vppon the morgage ye or no And whether did not the ſaid James after the death of Braynes vtterly denye the ſaid Compl*ainan*t to receaue any more p*ro*ffites of the p*re*miſſes Contrary to the Arbitramente wherby the ſaid John Hyde was not payde his monye accordinge to the ſaid Arbitramente with the p*ro*ffites of the p*re*miſſes as oughte to haue binne by the awarde/

11 **Item** whether did not the ſaid James Burbage intreate the ſaid John Hide to convaye the p*re*miſſes vnto Cutbarde Burbage his ſonne of porpoſe to defeate the ſaid Compl*ainan*t of her moyetye in the p*re*miſſes ye or no, if ſo then whether did not the ſaid John Hyde ſaye that ſhe ſhowlde haue her moyetye before he woulde convaye the p*re*miſſes excepte both the ſaid James and the ſaid Cutbarde woulde promiſſe that ſhe ſhoulde haue her moyetye and righte at there handes. ye or no/

12 **Item** whether did not the ſaid James and Cutbert often tymes p*ro*miſſe the ſayd Complaynaunt that ſhe ſhoulde have her moitye in the p*re*miſſes, and for that p*ur*poſe he ſuffered her to enioye yt and after putt her moſte vnconſcionablye from yt./.

13 **Item** whearas there was an order the thirteanthe of November in the two & thirtythe yeare of the Queanes M^tes^ raigne made in the Chauncerye betweane the ſaid James Burbage Cuthbert Burbage & others defendant*es* and the ſaid Margarett Braynes Complaynant that eche p*ar*tie and their aſſignes ſhoulde p*er*forme an arbitrament made Concearneinge the p*re*miſſes, and wheather did not the ſayd Margarett Braynes fo^r^ her p*ar*te come divers tymes to the theato^r^ & other the premiſſes to entreate the ſayd James Burbage and the ſayd Cuthbert Burbage that ſhe might enioye he^r^ moitye of the p*re*miſſes accordinge to the arbitrament & order thearin taken and what weare the ſpeaches of the ſaid James, Cuthbert & Richard Burbage therevnto to your remembraunce, And what do you knowe thearin ſpeake yor wholl knowledge/

14 **Item** what ſomme or ſommes of money or other p*ro*fitt*es* hathe the ſaid James Burbage and Cuthbert Burbage receeved for the Theator and other the premiſſes ſithens the laſt accompte or reconeinge made betweane the ſayd John Braynes & James Burbage to your knowledge or remembraunce, and what you knowe thearin, ſpeake yor wholle knowlege And what yo^u^ thinke the ſaid John Braynes beſtowed in buildinge of the Theator [for his

p*ar*te] and what money is dewe vnto him by any of the Burbages to yor knowledge

Scott [Attorney]

[Pinned to this skin of Interrogatories is a slip of paper addressed to Mr. Henry Jones, examiner, by Dr. Legg, Master in Chancery, as follows:]

Mr Jones Mr Dr Stanhope & I are deſyrous that yow take ye examinacons of ſuch witneſes wch ſhall be ſent to yow in a cauſe betwen widowe brayne pl. & two burbadges defendant*es*.

[Signed] Tho Legge

[On the upper left corner of skin is the note of three of the four examinations, as follows:]

Joannes Hyde iuratus
29 Januarij 1591
Radulphus Myles iurat/
29 Januarij 1591
Tho Legge
Nicholaus Biſhopp iuratus
29 Jan*uarij* 1591
Tho Legge

DEPOSITIONS

R*eſp*onſio Nich*ol*ai Biſſhoppe ad ar^{los} Margarete Braynes q*uerentis* verſ*us* Jacobu*m* Burbage et Cuthb*er*tum Burbage defend*entes/* p*er* ordinem Curie capt*a* p*er* Henr*icum* Johnes in Cancellar*ia* Exa*mina*torem/

Nich*ol*as Biſſhope of the p*ar*iſhe of whyte chapell w^{t}out Allgate london Sope maker/ of the age of xxxij yeres or therabout*es* ſworne and ex^{d} the xxix daye of Januarye in the xxxiiij yere & ct^{r}

To the firſt Jnt. that he doth know all the p*ar*ties pl*aintif* and defend^{tes}/ And knoweth ther is Sute betwene the ſaid p*ar*ties/

for and concern*in*g matter of the Theater at Hallywell/ the p*ar*-ticularitie wherof he knoweth not/

To the 2 that he doth knowe ther was ſome Sute betwene James Burbage one of the now defend^{tes}/ and Jo. Brayne deceſſed the late huſband of Margarett Brayne/ in matter concern*in*g the ſaide Theater/ And to the reſt of this Jnterr*ogatory* he ſaith he cannot depoſe/

To the 3 that he is ingnor*ant*

To the 4 that he is ingnor*ant*

To the 5 that he is ingnor*ant*

To the 6 that he is ingnor*ant*

To the 7 that he can ſay nothing

To the 8 that he can ſay nothing

To the 9 that he can ſay nothing

To the 10 that he can ſay nothing

To the 11 that he can ſay nothing

To the 12 that he is ingnor*ant*

To the 13 that he doth Reme*m*ber he hath ſene ſuche an ordre as in this Jnt. is menc*i*oned/ for the p*er*formance of ſuche an Arby-tryment/ And doth know that the ſaid Margaret Braynes w^{t} one Robert Myles came at feue*r*all tymes to the ſaid Theater & namely vpon one of the playe dayes and intreated James Burbage one of the now defend^{tes} that ſhe might enioye her Moytie of the premiſſes according to the Awarde/ and Ordre of the Chaun-cerye/ And the anſwer wch James Burbage made therunto/ was

that before ſhe ſhuld haue any thing to do there/ ſhe ſhuld ſhewe good ordre for it/ and then the ſaid Myles ſayd that he had a ſufficient ordre of the Chauncery for the ſame/ & ſhewed him ſome papers/ and then the ſaid James Burbage called his Raſcall & knave/ and ſayd that before he wold loſe his poſſeſſion/ he wold make xx contempt*es*/ and then/ the wyfe of the ſaid James/ and ther yongeſt ſone called Rychard Burbage/ fell vpon the ſaid Myles & beat him and drave both him and the comp^{l} away/ ſaying that yf they did tarye to heare the playe as others did/ they ſhuld/ but to gather any of the money/ that was gyven to [*come in* (stricken out)] go vpon/ they ſhuld not/ And ſaith that Cuthbert Burbage the other of the defend^{tes} was not there/ to his Reme*m*braunce/

To the 14. that he [is] vtterlye ingnora*nt*/ Nor more can ſaye to all the ſaid Jnterr*ogatories*/

[Signed] Nicholus Byſhop

John Allen of the pariſhe of St Buttolles wthout Biſhops gate london Jnholder of the age of xxxv yeres or y*er*abou*tes* ſworne and ex^{d} the vjth daye of ffebr*uary* in the yere aforeſaid & ct^{r}. To the firſt Jnt that he doth knowe all the p*ar*ties plaintif & defend^{tes} named/ And knoweth of the Sute betwene the ſaid comp^{l}/ and the ſaid defend^{tes} concern*i*ng her tytle in the moytie of the place called the Theater and of the houſes and tenem^{tes} longing to the ſame/ in S^{t} leon*ardes* p*ar*iſhe in Shordiche nere london/

To the 2. that he doth knowe that whille the now compl^{tes} late huſband Brayne lyved/ the originall of the ſaid Sute and contro*uer*cyes began betwene him & James Burbage the one of the now defend^{tes}/ for & about the int*ere*ſt & tytle wch the ſaid Brayne had in the ſaid Theater & p*re*miſſes/ And ſaith that he hath crediblie heard/ and beleveth to be true, that for A quyet end & order to be had in the ſaid Sute & co*n*trovercie then betwene them/ they did ſubmitt themſelf*es* to the Arbytryment & Award

of indyffrent ffrendes/ and that they made and Award in the ſame betwene them/ the certentye wherof he knoweth not/ But he hath heard it ſayd/ that they Awarded the one half of all the profitt*es* growing by & of the ſaid Theater to the ſaid Brayne his executo^{rs} & aſſignes/ and the other half to the ſaid James Burbage/ his executo^{rs} and aſſignes/

To the 3. that he is ingnora*nt*

To the 4. that he hath heard James Burbage the one of the now defend^{t*es*} ſaye & affirme/ that he and the ſaid Johne Brayne did Morgage the ſaid Theater and the foreſaid premiſſes/ to John Hyde named in the Jnt/ vpon the ſome of one hundreth twentie and fyve poundes or therabout*es*/
To the 5. that he hath hearde both the ſaid James Burbage/ and the now comp^{l} ſaye & afferme that the ſaid Morgage fell forfetted to the ſaid Hyde/ for the not repaym^{t} of the ſaid Cxxv^{li} at the daye fixed for the repayment therof/ by the ſaid Morgage/

To the 6. that he is ingnora*nt*

To the 7 that he ca*n* ſay nothing

To the 8. that he can ſay nothing

To the 9 that he can ſay nothing

To the 10. that he doth think in his conſcience/ that the ſaid James Burbage did detayne the profitt*es* of the p*re*miſſes in his own handes of purpoſe/ that the ſaid morgage ſhuld be forfetted/ And after the death of the ſaid Jo. Brayne/ did vtterlye deny/ that the now comp^{l} ſhuld receyve & have any more b*ene*fitt or p*ro*fitt of the ſame/ co*n*trarye to the foreſaid Awarde/ So as therby the ſaid Hyde was not payd his money w^{t} the proffytt*es* of the p*re*miſſes/ as it was truelie ment and intended by the ſaid Award/

To the 11. that he can ſay nothing

To the 12. that he knoweth not whether the ſaid defend^{tes} did promiſſe the comp^{l} that ſhe ſhuld haue the Moytie of the profitt*es* of the p*re*myſſes/ But he ſaith that he well knoweth that ſhe had for a tyme, her p*ar*te in the p*re*miſſes and did enioye it/ but how afterwardes ſhe was put from it/ he ſaithe he knoweth not/ otherwyſe then as he thinketh/ by the wrongfull dealing of the defend^{tes}/ w^{t} her/

To the 13. that he doth knowe/ that after the compl^{tes} huſband Brayne dyed/ And y^{t} Sute followed afterward*es* betwene her then wydowe/ and the ſaid defend^{tes} co*n*cern*in*g her tytle by her huſband*es* death to the one half of the profittes of the ſaid Theater/ in the Chauncerye/ the ſaid Co^{r}te of Chauncerye made an Ordre/ that aſwell the defend^{tes} as the ſaid comp^{l} ſhuld on ether of ther p*ar*tes/ p*er*forme the Arbitrym^{t} & Award wch had bene made before that/ betwene the ſaid Jo. Brayne/ and the ſaid James Burbage/ wch was/ as is beforeſaid/ that ether of the ſaid Jo. Brayne/ and James Burbage/ ſhuld by even porc*i*ons devyde the proffitt*es* and b*e*nefitt Ryſing by the vſe of the ſaid Theater/ betwen them/ ther executo^{rs} and aſſignes/ And ſaithe that he hath ſene the ſame comp^{l} w^{t} one Myles come Dyvers tymes to the ſaid Theater/ & hath deſyred the ſaid defend^{tes}/ that according to the ſaid Arbytrament & Ordre of the Chauncerye/ ſhe might take Receyve and enioye her Moytie of the ſaid profitt*es*/ And the ſaid defend^{tes} and one other of the ſaid James Burbage ſones called Ry. did raylle vpon the comp^{l}/ and the ſaid Myles & w^{t} vyolence Drave them out/ [*And ſayd that they wold not leave the poſſeſſion of the* (stricken out)] ſaying that ſhe ſhuld haue no Moytie there/ And then this depo^{t}/ being there/ did as a ſ*er*vaunt wiſhe the ſaid James Burbage to [*take hede* (stricken out)] haue A conſcience in the matter ſaying vnto him/ that he him ſelf knew that the woma*n* had A right in the ſame by her huſband/ and y^{t} it was her huſband*es* welthe that builded the Theater/ as every bodye knoweth/ and he then did anſ*w*ere/ hang her ho^{r} qd he/ ſhe getteth nothing here/ lett her wyn it at the Comm*en* lawe/ and bring the Shiref w^{t} her to put her in poſſeſſion/ and then he wold

tell her more of his mynde/ Then this depo^{t} told him that thoughe he overreached her huſband being but a plaine & ſymple man/ yet ſhe being enforced to ſeke remeadye againſt yo^{u}/ hath the Chauncerye being the highest co^{r}te and A co^{r}te of conſcience on her ſyde and hath an Ordre out of the ſame to haue her moytie therof/ Conſcience qd he/ god*es* blood what do yo^{u} tell me of Conſcience/ or Ordres/ No qd this depo^{t}/ Reme*m*ber yor ſelf well/ ffor yf my lord Chauncello^{r}/ make an Ordre againſt yo^{u}/ yo^{u} were beſt to obey it/ otherwyſe it will prove A contempt/ and then yo^{u} ſhall purches my lord Chauncello^{rs} Diſpleaſ*ure*/ and he made anſ*wer*e that he cared not for any contempt/ ſaying/ that yf ther were xx co*n*tempt*es*/ and as many Jniu*n*cc*i*ons he wold w^{t}ſtand them all/ before he wold loſe his poſſeſſion/ And further ſaith that/ when this Depo^{t} about viij Daies after came to him for certen money wch he deteyned from this depo^{t} and his fellowes/ of ſome of the Dyvydent money betwene him & them/ growing alſo by the vſe of the ſaid Theater/ he denyed to pay the ſame/ he this depo^{t} told him that belike he ment to deale w^{t} them/ as he did w^{t} the po^{r} wydowe/ meani*n*g the now comp^{l}/ wiſhing him he wold not do ſo/ for yf he did/ they wold compleyne to ther lorde & M^{r} the lord Admyrall/ and then he in A Rage litle Reu*e*rencing his hono^{r}/ & eſtate/ ſayd/ by a great othe/ that he cared not for iij of the beſt lord*es* of them all/ And further ſaithe/ that at the tyme when the comp^{l} and the ſaid Myles Requyred (as is beforeſaid) her Moytie of the ſaid Theater & p*re*miſſes this depo^{t} found the foreſaid Ry. Burbage the yongeſt ſone of the ſaid James Burbage there/ w^{t} A Broome ſtaff in his hand/ of whom when this depo^{t} aſked what ſturre was there/ he anſ*wer*ed in laughing phraſe hew they come for A moytie/ But qd he (holding vppe the ſaid [*ſtaff of that ſtuck in the* (stricken out)] broomes staff) I haue, I think deliu*e*red [*them* (stricken out)] him A moytie w^{t} this & ſent them packing/ and then this depo^{t} ſayd vnto him & his ffather/ that the ſaid Myles might haue an Acc*i*on againſt the ſaid Rychard/ Tuſche qd the father/ no J warr*a*unt yo^{u} but where my ſone hath now beat him hence/ my ſones/ yf they wilbe Rueled by me/ ſhall at ther next com*i*ng pro-

vyde charged Piſtolles w^{t} powder and hempſede/ to ſhoote them in the legg*es*/ But to his Reme*m*bra*n*ce he ſaw not Cuthbert the other defend^{t} there/

To the 14. that he knoweth not whan the laſt Accompte was made of the profittes of the ſaid Theater betwene the ſaid James Burbage/ and the ſaid Jo. Braynes/ But he ſaithe/ that for theſe v. yeres he verelie thinketh that the ſaid James Burbage hath Receyved at the leaſt of the p*ro*fitt*es* of the ſaid Theater & other the p*re*miſſes to the ſame belonging/ an hundreth poundes or CC m*ar*k*es* by yere/ for his owne ſhare/ And more he ſaith not to all the ſaid Jnterr*ogatories*/

[Signed] Jo^{n} Allein.

Raphe Myles of london Sope maker/ but free of the company of the Gold ſmythes/ of the age of xxvij yeres or therabout*es* ſworne & examyned the xth Daye of ffebruarye in the yeare aforeſaid & ct^{r} To the firſt Jnt that he doth knowe all the p*ar*ties p^{l} and defend^{t*es*} And knoweth that ther hath bene & yet is Sute & co*n*trau*er*cye betwene them/ for the one half & Moytie of the Place called the Theater at Shordiche nere london/ & of the howſes & tenem^{t*es*} longing to the ſame/

To the 2. that he hath heard by credible report/ and beleveth to be true that ther was co*n*trovercye and contenc*i*on/ betwene Jo. Brayne deceſſed the late huſband of the now comp^{l}/ and James Burbage one of the now defend^{t*es*}/ touching the ſaid Theater/ And that they ſubmitted them ſelf*es* to the ordre and Arbitryment of certen p*er*ſones for the pacyficac*i*on therof/ to witt one John Hill/ and Richard Turno^{r} And that they made an Award betwene them in Julye 1578. in the xxth yere of her Ma^{t*es*} Reynge/ by wch Awarde/ they ordred that the ſaid Jo. Brayne his execuro^{rs} & aſſignes ſhuld haue & enioye the one half or moytie of the Rent*es* and p*ro*fitt*es* Ryſing and growinge of the ſaid Theater & of the howſes & buildinge*s* therunto belonging/ and the ſaid James Burbage his execuro^{rs} and aſſignes to haue & enioye the

other half or moytie of the p*re*miſſes/ w^{t} Dyvers other cove-n*an*te*s* as by the ſame Award maye more at lardge appere/ wch this Depo^{t} hath redd/

To the 3. that the ſaid Arbitrato^{rs} did alſo award/ that yf occaſion ſhuld move them to borow any ſome of Money for the paym^{t} of ther debt*es* owing for any neceſſarye vſe & thing co*n*cern*in*g the ſaid Theater/ that then the ſaid James Burbage and the ſaid Jo. Brayne/ ſhuld Joyne in pawn*in*g or morgage of ther eſtate & int*ere*ſt of & in the ſame/ and the money that ſhuld ryſe of the Rent*es* and proffitt*es* of the ſame Theater & of the howſes app*er*-teyn*in*g therunto/ ſhuld go to the Redempc*i*on of the ſaid Mor-gage/ The wch Morgage being redemed/ and ſuche debt*es* as then were owing dew for & about the matter of the ſaid Theater being payde/ that then the ſaid Jo. Brayne his executo^{rs} & aſſignes ſhuld take haue & enioy to his owne vſe/ all the profitt*es* of the ſaid Theater till he were ſatiſfyed of ſuche ſome of money as the ſaid James Burbage was owing vnto him for and in liew of ſomoch more money lade out & defrayed by him vpon & about the ſaid Theater/ then the ſaid James Burbage had lade out in the ſame/

To the 4. that he doth knowe/ that for the ſome of one hundreth twentie & fyve pound*es*/ or therabout*es*/ the ſaid James Burbage and John Brayne did morgage ther leaſe & int*ere*ſt of the ſaid Theater & of the p*re*miſſes longing to the ſame/ to Jo. Hyde grocer named in this Jnterr*ogatory*/

To the 5. that he hath heard ſaye/ that the ſaid Morgage fell for-fetted to the ſaid Jo. Hyde/ for that the ſaid money was not repayd vnto him at the dayes lymytted for the paym^{t} therof/

To the 6. that he hath heard the ſaid Jo. Hyde co*n*feſſe and affirme after the deceſſe of the ſaid Brayne that he was ſatiſfyed of all the money wch he lent vpon the ſame Theater [*w^{t} the intereſt*

therof, in the lyf tyme of the faid Jo Brayne (stricken out)] faving the ſome of xxx^{li} or therabout*es*/ as he Reme*m*brethe/

To the 7. that he hath heard the ſaid Jo. Hyde promes to the now Comp^{l} the ſaid Braynes wydow ſyns her huſband dyed/ in the p*re*f*e*nce & hearing of this depo^{t} and others/ that yf he were payd the money that was behynde vnpayd/ of the ſome wch he lent vpon the ſaid Morgage/ he wold never take any advantage of the furfetture of the ſaid Morgage/

To the 8. that he hath heard the ſaid John Hyde p*ro*miſe the ſaid comp^{l}/ in the p*re*f*e*nce & hearing of the foreſaid p*er*ſones/ that yf he were payd his money behynde vnpayd/ he wold deliu*er* vppe the leaſe that laye forfetted in his hande/ to her & the ſaid James Burbage/ as it was morgaged vnto him by the ſaid Burbage & her huſband Brayne/

To the 9. that he was p*re*f*e*nt w^{t} others/ whan the ſaid Comp^{l} the wydow Brayne/ offred to the ſaid Jo. Hyde/ that yf he wold deliu*er* vppe the leaſe vnto her/ ſhe wold make ſhyft for the money that was behynde/ and wold be bounde to aſſure to the ſaid James Burbage, the one half therof/ although he went about to do her wrong in it/ Wherunto the ſaid Jo. Hyde made anſwer/ that he wold not ſo do/ but whan qd he/ I haue my money/ I will deliu*er* it vppe to yo^{u} both/ as I had it of yor huſband & him/ and then ſhe told him ſaying/ Mr Hyde yf yo^{u} do otherwyſe/ yo^{u} do vndoe me/ ffeare not M^{res} Brayne (qd he) I wilbe as good, as my worde whan I am payd my money/ ffor had it not bene for yor huſband whom I knew to be of Creditt/ I wold not haue delt w^{t} the other/ or wo^{r}d*es* to this effecte/

To the 10. that he did heare ſaye ſyns the deceſſe of the ſaid Brayne/ y^{t} the ſaid James Burbage did earneſtlie p*ur*ſuade the ſaid comp^{l} to beſtow all the money that ſhe was hable to make in reparing and building about the ſaid Theater/ and in that reſpecte

he ſuffred her A certen tyme/ to take & Receyve the one half of the p*ro*fitt*es* of the Gallaries of the ſaid Theater vntill ſhe had ſpent & beſtowed vpon the ſame/ all that ſhe had Receyved and A great deale more/ And then on a ſoden he wold not ſuffer her to receyve any more of the proffitt*es* there/ ſaying that he muſt take & Receyve all, till he had payd the debt*es*/ And then ſhe was conſtrayned as his ſ*er*vaunt/ to gather the money/ & to deliu*er* it vnto him/ and ſhortlie after/ he wold not ſuffer her any waye to medle in the p*re*miſſes/ but thruſt her out of all/ and ſo vſeth her to this Daye/ againſt Dyvers Ordres out of the Co^rte of Chauncerye/ in verye contempcyous ſort/

To the 11. that he can ſay nothing

To the 12. that he can ſay no more then he hath before ſaid to the xth Jnterr*ogatory*/

To the 13. that he doth knowe/ ther was ſuch an Ordre/ & to the ſame effecte/ as in this Jnterr*ogatory* is menc*i*oned/ the wch Ordre the ſaid comp^l^ being verye willing to p*er*forme the ſame/ went Dyvers tymes w^t^ ſondrye her frend*es* and neighbo^rs^ to the now defend^t*es*^/ and demaunded of them her moytie of the Rentes and p*ro*fitt*es* of the ſaid Theater & p*re*miſſes according [to] the ſaid Ordre/ and they did vtterlye deny ſo to do/ in the hearing of this depo^t^ and others of credit and reputac*i*on/ the ſaid James Burbage ſaying he wold obey no ſuche Ordre/ nor cared not for them/ Revyling the comp^l^ w^t^ termes of Murdring ho^r^ & otherwiſe & chardged her & her companye to get them of his grounde/ Or elles he wold ſett them of w^t^ no eaſe/ At wch tyme Cuthberde Burbage the other defend^t^ came to them/ and then the ſaid comp^l^ demaunded of him/ the p*er*form*an*ce of the ſaid Ordre/ and he made anſwer/ he wold not ſtand to any ſuch ordre/ and willed her & her company to gett them thence ſaying thow haſt nothing to do here/ nether ſhalt thow haue any thing to do here/ and ſo w^t^ moche threaten*i*ng and manacyng, ſhe and her companye went awaye/

To the 14. that he hathe heard ſaye by credible reporte/ that the ſaid James Burbage/ & his aſſignes & ſ*ervauntes*/ ſyns the deceſſe of the ſaid Jo. Brayne/ hath Receyved great ſomes of money/ to the value of ſeaven or eight hundreth pound*es*/ of Rent*es* and proffitt*es* growing of the ſaid Theater and the app*ur*tynanc*es* longing & adioyni*n*g to the ſame/ & deteyneth in his & his ſones hand*es*/ aſwell the comp^ltes^ part/ wch ſhe ought to haue both by the ſaid Awarde/ and ordre of the Chauncerye/ as ther owne/ to the po^r^ womans vtter ſpoyll & vndoing/ her ſaid huſband having beſtowed & lade vp*p*on the ſame (well known to them that knewe him) vj or vij^Cli^ more/ then the ſaid James Burbage did/ Soas by this g^t^ wrong myniſtered by the defend^tes^ to the now comp^l^/ the comp^l^ being indebted abrode to the value of foure or fyve hundreth poundes/ ſhe is enforced to hyde her ſelf/ and to lieve in g^t^ myſerye/ But whan the laſt Accompt was made betwene the ſaid Brayne and the ſaid James Burbage/ he knoweth not/ But he ſaithe that it doth appere by the Booke of Recon*i*ng of the proper hand wrytinge of the ſaid Brayne/ made betwene him and the ſaid Burbage in his lyfe tyme/ that the ſaid James Burbage was then in his debte of the one moytie of CCxxxix^li^ & od money/ And otherwyſe to this Jnt. he ſaith he ca*n*not depoſe/ Nor furth^r^ ſaithe in this matter/

[Signed] p*er* me Raphe Miles

Johne Hyde of london Grocer/ of the age of lx yeres or therabout*es* ſworne and ex^d^ the xij^th^ daye of ffebruarie/ in the yere aforeſaid & ct^r^

To the firſt Jnt. that he doth know all the p*ar*ties pl*aintiff* & defend^tes^ named in this Jnt*errogatory*/ And ſaith that he hath heard of Sute and controu*er*sy depending betwene the ſaid p*ar*ties/ for & concern*i*ng the Theater beyond Shordiche w^thout^ Biſſhops gate london/ the certentye of wch Sute/ he ca*n*not depoſe

To the 2. that he did heare ſay/ that in the lyfe tyme of John

Brayne deceſſed/ the late huſband of the now comp[l] ther was ſome contencion/ and controu*er*cye betwene him and James Burbage one of the now defend[tes] Concern*in*g the ſaid Theater/ But what end the ſame contencion took/ he ſaith he is ingnora*n*t

To the 3. that he is ingnora*n*t

To the 4. that true it is/ the ſaid James Burbage and the ſaid John Brayne did Joyntlie Morgage the intereſt they had in the ſaid Theater to this depo[t] vp*p*on & for the ſome of Cxxv[li] as he doth now Reme*m*ber or therabout*es*/ to be repayd at a yeres end as [this deponent] doth now call to mynde/
To the 5. that for nonpaym[t] of the ſaid money they forfetted the ſaid Theater to this depo[t]/ and ſo remayned forfetted vnto him feue*r*all yeres/

To the 6. that nether the ſaid James Burbage/ nor John Brayn payd vnto this depo[t] any part or p*ar*cell of the ſaid money ether before the ſaid forfetture/ nor long after it was forfetted/ Nor how moche was left vnpayd of the ſame at the death of the ſame Jo. Brayne/ Nor how moche therof hath bene payd ſyns his deathe/

To the 7. that it is verye true/ that he this depo[t]/ did many and ſondrye tymes tell bothe the ſaid Jo. Brayne/ the ſaid James Burbage/ the now comp[l]/ and others her ffrend*es*/ that yf he this depo[t] were payd his money that was behynde due [and ſome reaſonable conſideration] for the forbearing therof/ that he wold never take any advantage of the ſaid forfeture/

To the 8. that it is true indede/ he this depo[t] did dyvers tymes tell the now comp[l]/ that yf he were payd his money/ he wold make over the ſaid Theater to her and the ſaid James Burbage by cauſe her huſband & the ſaid Burbage did Joyntlie Morgage it vnto him/ And this anſ*wer* he this depo[t] made vnto the ſaid comp[l], ſondrye yeres/ and at the laſt he told her that ſyns he had forborne his

money ſo long/ he could do it no more/ ſo as they that came firſt to paye him/ ſhould haue it of him/ as he doth now Remember/

To the 9. that it maye be the ſaid comp^{l} did offer this depo^{t} the money behynd vnpayd vnto him/ of the ſaid Morgage/ ffor ſhe came many & often tymes vnto him concerning the ſame/ but in troth he doth not Remember ſhe made him any ſuche offer/ But he ſaith that yf ſhe had/ and had performed the ſame/ he wold rath^{r} have put it over vnto her/ then to the ſaid Burbages/ ffor that ſhe did greatlie complayne vnto him/ that James Burbage did her wrong/ & ſoght to put her from it/ And ſaith that to his Remembrance/ he did not heare her ſaye that yf this Depo^{t} did put it over to her/ ſhe wold be bounde to convey the one Moytye of it to the ſaid James Burbage/ And otherwiſe to this Interrogatory he ſaith he cannot depoſe/

To the 10. that he can ſay no more/ but that he did heare ſaye/ y^{t} the ſaid James Burbage after the death of the ſaid Jo. Brayne/ dyd denye/ the comp^{l} to receyve any of the profittes of the ſaid Theater/

To the 11. that true it is/ the ſaid James Burbage was ſondrye tymes in hand w^{t} this depo^{t}, that vpon the paym^{t} of the money behynde and ſome conſideracion for the forbearing therof/ he this depon^{t} ſhuld convey over the premiſſes to his ſone Cuthbert Burbage/ and this depo^{t} was verye loth ſo to do/ wthout the conſent of the comp^{l}/ And at the laſt he and his ſone brought to this depo^{t} A lettre from one Mr Cope one of the Lord Treaforo^{rs} gentlemen/ the ſaid Cuthbertes M^{r}/ that he this depo^{t} wold at his Requeſt and as he might be able to do this depo^{t} any frendſhip or pleaſure in any his occaſiones to his lord & M^{r}/ ſhuld convey over his intereſt of & in the premiſſes to his ſervaunt Cuthbert Burbage the ſone of the ſaid James vppon the paym^{t} of ſuche money as was due vnto him & vnpaid/ and vpon ſome conſideracion for the forbearing of it/ And this depo^{t} (partlie at

the ſaid gentlemans Requeſt/ and p*ar*tlie at inſtant entreatye of the ſaid James Burbage & his ſaid ſone) did indede vp*p*on the conſideracions aforeſaid convey over the p*re*miſſes to the ſaid Cuthbert/ But whether this depo^t^ ſaid vnto them that he wold not ſo do/ except the comp^l^ had her moytie in the ſame/ or not/ he doth not Reme*m*ber/ But he well Reme*m*breth/ that he wiſhed the ſaid Burbag*es* to do the comp^l^ no wronge/ her huſband was dead/ & had left her in g^t^ lack/ and that he did vndoe him ſelf/ by entring in the doing*es* of the Theato^r^/ and they ſaid/ & many tymes haue ſaid/ that they wold do her no wronge/

To the 12. that true it is, the ſaid Burbag*es* did promes this Depo^t^ that took what was the compl^tes^ right & due to haue/ that ſhe ſhuld haue it at ther hand*es*

To the 13. that he can ſay nothing

To the 14. that to the firſt poynt of this Jnt*errogatory* he ſaith he can ſay nothing/ And to the ſecond poynt of the ſame he ſaith/ that he doth thinke that when the ſaid Braynes entred into the Acc*i*on of the ſaid Theater/ he was wo^r^th fyve hundreth poundes at the leaſt and by com*m*en fame wo^r^th A thowſand m*ar*k*es*/ and A man well thoght of in london/ And this depo^t^ verelie thinketh he beſtowed the ſame/ or the moſt part therof vp*p*on the ſame Theater/ to his vndoing/ And to the laſt poynt of this Jnter*rogatory* he ſaith he ca*n*not depoſe/ And more he ſaithe he ca*n*not ſaye to all the ſaid Jnterro*gatories*/

[Signed] p*er* me John Hyd groc*er*

BRAYNE *v.* BURBAGES

Idem, Bundle 228, No. 10, Hilary and Easter, 34 Elizabeth (Feb., April, May, 1592).

[Four skins of interrogatories—one to John Hyde, one to Nicholas Bishop, one to Ralph Miles, and one to John Allen—thonged in this order to the depositions, which are incorrectly arranged in the following order—Bishop, 2⅛ sheets, Miles, 3 sheets, Allen 2, Hyde 1.

The following transcripts are arranged, however, in the chronological order in which the depositions were taken, which is also the order of the interrogatories—Hyde, Bishop, Miles, Allen—the interrogatories to each being placed immediately before the answers to it, as the more convenient.

These four depositions, taken in behalf of the Burbages, are in effect the cross-examination of the plaintiff's four principal witnesses.]

INTERROGATORIES TO HYDE

Articles to be miniſtred to John Hyde Citezein and grocer of London as followeth.

ex p*ar*te Jacobi Burbage
et Cuthberti Burbage.

Impr whether are you John Hyde examined in the Courte of Chauncerye in and vpon the Queſtions and to theſe matters followinge, or to Articles to theffecte thereof, And whether haue yow declared yor knowledge and conſcience therein yea or no.

Bothe how and of whome yow had the Leaſe of the Theater to yow conveyed/ And vpon what conſideracion And that before yow did grauntt the ſame to Cuthbert Burbage yow did repute the ſame to be yor owne duringe the ſaide Leaſe.

And that yow did not compounde wth John Brayne for yor title in his life tyme, And that yow did at noe tyme receyve moneye of him by force of anye ſuche Compoſition And that yow at noe tyme ment or had cauſe to deale wth the ſaide John Brayne for the ſaide Leaſe or anye p*ar*te thereof, nor wth any other on the behalf of the plaintyfe or any for her.

DEPOSITION OF JOHN HYDE

R*eſp*onſio Joh*ann*is Hyde ad ar^{los} Jacobi Burbage et [Cuthberti] Burbage/ defen*dentum* verſ*us* Brayne vid*uam* q*uerentum* [per] ordinem Cur*ie* capt*a* per Henr*icum* Johnes in Canc[ellaria] Exa*min*atorem/

[This heading stricken out by the clerk on rearranging the depositions for filing.]

Johne Hyde of london grocer/ of the age of lx yeres or therabout*es* ſworne and ex^{d} the xxj daye of ffebr*uary* in the xxxiiij yere & ct^{r} To the firſt Jnt*errogatory* That he hath bene ex^{d} twyce alredye before now in this Co^{r}te in the matters in controu*er*cye betwene the comp^{l} & the now defend^{t*es*}/ that is to ſaye/ firſt in the ſubſtance of the Cauſe/ and ſecondlye now of late vpon matter of contempte alledged by the comp^{l} againſt the defend^{t*es*}/ wherin he thinketh he hath ſayd truelye/ according to his conſcience knowledge & Remembra*n*ce/

To the 2. that one Prvne A Broker/ was the firſt man that offred the leaſe of the Theater in morgage to this depo^{t}/ and after he had broght this depo^{t} acquainted w^{t} James Burbage/ and one Jo. Brayne/ he the ſayd James Burbage & Brayne did Joyntlye/ morgage to this depo^{t} the ſaid leaſe for one Cxxv^{li} or y*er*about*es* and Joyntlie they and the ſaid Prvne as he Reme*m*breth did entre into bonde to this depo^{t} for the Redempc*i*on therof/ at A daye/ but it was forfetted to this depo^{t}/ at the leaſt v or vj yeres [first written *vij or viij yeres*] or therabout*es* as he Reme*m*breth in wch ſpace/ he this depo^{t} did repute the ſame leaſſe to be his owne during the yeres therin then to come/

To the 3. that after the ſaid leaſſe became forfetted to him this depo^{t}/ Jt was agreed on both ſydes/ that yf the ſaid Burbage and Brayne or ether of them/ did pay this depo^{t} v^{li} A weke/ till all the foreſaid Morgage money were payd/ w^{t} ſome reaſonable conſideraci*o*n for the forbearing of it/ that then they ſhuld haue ther leaſe againe/ wch they p*er*formed by the ſpace of iiij^{or} or v. w*ee*k*es* after/ but they p*er*formed no more/ and ſo ſuffred ther leaſe to be ones againe forfetted to this depo^{t}/ And ſaithe that in troth he this depo^{t} did never compounde w^{t} the ſaid Brayne for the right and int*ere*ſt this depo^{t} had in the ſaid leaſe by the ſaid forfetture at any tyme/ in the lyfe tyme of the ſayd Brayne/ nor ever receyved any money of him to his Reme*m*bra*n*ce vpon any ſuche compoſici*o*n/ And to the reſt of this Jnterr*ogatory*/ he

faith/ that he can ſay no more in effecte/ then he hath heretofore depoſed & ſayd on the comp^ltes behaulf in the matter of the ſaid contempt/ Nor further can ſay to theſe Jn*terrogatories*/

[Signed] p*er* me John Hyde

INTERROGATORIES TO NICHOLAS BISHOP

Interr^s to be mynyſtered vpon the p*ar*te and behaulf of James Burbage and Cuthbert Burbage to Nycholas Biſhop, accordinge to an order made the xiij of Nouemb^r A° xxxiij° R^ne in a cawſe betwene Margaret Brayne p^l & the ſaid Burbag*es* defend^tes.

1. **Inprimis** whither are yo^u ſervaunte to Raphe Myles: And whither haue yo^u ſeene An Arbitrem^t wch one Hill and one Turner did make, betwen one John Brayne, and the ſaid James Burbage, about the Theatre. And what doth the ſaid Margaret Brayne clayme therby to yor knoweledge. And whither do the players of enterludes, vſe to plaie in the ſaid Theatre vpon the ſabothe day yea or no

2 **Item** who placed yo^u to be a Collecto^r at the ſaid Theatre, at that tyme when Rob*er*t Myles did place Collecto^rs at the doares of the ſaid Theatre, vnder the cullor of an order made in the Chauncerie, That aſwell the p*ar*tie p^l as thes defend^tes ſhould p*er*forme the aforſaid Arbitrem^t. And what were yo^u appoincted to collect. Whither did the p^l. at that tyme ſhewe fourth the ſaid Arbitrem^t, Or require thes defend^tes to p*er*forme the ſame. And whither did thes defend^tes require her to ſhowe her auctoretie ſhe had, and the ſame Arbitrem^t. And whither did thei the ſaid defend^tes offerr to the p^l. that yf her aucthoretie were ſufficient, to Collect the p*ro*fitt*es* of the ſaid Theatre, that thei would admitt her quietlie ſo to do. What aunſwer was made therto, And who made the ſaid aunſwer. And whi did ſhe refuſe to ſhew furthe any aucthoritie for her doing*es* to yor knoweledge.

3. **Item** wherin do yo^u knowe that thes defend^tes or any of them, hath committed any contempt, againſt the Court of Chanceri or

againſt any order made in the ſaid Covrt. And wherin do yo^{u} knowe that the p^{l} hath p*er*formed the Arbitrem^{t}, And wherin haue the defend^{tes} broken, or not p*er*formed the ſaid Arbitrem^{t}. to yor knowledge.

4. **Item** whither haue yo^{u} herd Rob*er*t Myles report that the Theatre was his, And that he had moſt right thervnto And that he would pull the ſaid defend^{tes} out of the ſaid Theatre by the eares. What ſome of mony hath he, or his ſonne Raphe Myles reported that the ſute againſt thes defend^{tes} had coſt him or them, And what ſome haue thei ſworne to ſpend, for the removinge thes defend^{tes} fro*m* the Theatre.

5 **Item** what title or promyſe of title in the ſaid Theatre haue yo^{u} herd the p^{l} to make to the ſaid Rob*er*t or Raphe Myles. And what haue yo^{u} herd them boaſt thei ſhuld gayne therby. And whither do yo^{u} thincke in yor conſcience, that Rob*er*t Myles or Raphe Myles ſhall haue ſome intereſt or p*r*ofitt out of the Theatre in Lieu of ther chardg*es* and travell after the ſame ſhalbe recovered fro*m* the defend^{tes} yea or no.

6. **Item** whither did yo^{u} at ſuch tyme as Rob*er*t Myles or the p^{l} place Collecto^{rs} at the doores of the Theatre as is aforſaid heare James Burbage ſaye thes word*es*. Conſcienc. God*es* bloud what tell yo^{u} me of conſcienc or orders Or thes wordes. I care not for any contempt. Or thes wordes, I care not for iij of the beſt Lordes in England. yf yo^{u} did heare them, then who was by and p*re*ſ*e*nte when yo^{u} herd thoſe word*es*. And to whom were thei ſpoken. And whither were thos word*es* ſpoken to the playntif yea or no And whither was ſhe p*re*ſ*e*nte when Myles did ſo often tymes come to the Theatre to dem*a*und a moitie of the profitt*es* therof yea or no.

DEPOSITION OF NICHOLAS BISHOP

R*e*ſ*p*onſio Nich*ol*ai Biſſhoppe ad ar^{los} Jacobi Burbage & Cuthberti Burbage verſ*us* Margaret*am* Brayne vid*uam* capt*a* per Henr*icum* Johnes in Cancellar*ia* Exam*in*atorem p*er* ordinem Curie/

Nych*ol*as Biſſhoppe of the p*ar*iſhe of whytechapell w^{t}out Allgate london Sopemaker/ of the age of xxx yeres or therabout*es* ſworne and ex^{d} the vjth Daye of Aprill in the xxxiiij yere & ct^{r} To the firſt Jnt myniſtred vnto him/ That he was never ſ*erva*unt to Raphe Myles named in this Jnt. but was & is now his p*ar*tener/ And ſaith that he hath ſene ſuche an Award or Arbitryment But who made the ſame/ he now reme*m*breth not/ but he doth Remember/ it was about the matter of the Theatre/ And ſaith that by the ſame Awarde/ Margarett Brayne the now comp^{l} doth clayme to haue of right the one Moytie or half of the profitt*es* growing by the vſe of the ſaid Theatre/ and of all ſuche Rent*es* as do ryſe of ſuche tenem^{t*es*} & howſes longing to the ſame/ wch profitt*es* do ryſe by reaſon of the wekelie playes & interludes that are vſed to be playd there/

To the 2. that he was requeſted by the ſaid Margaret Brayne and Robert Myles/ the ffather of the ſaid Raphe Myles/ to go w^{t} them to the Theater vp*p*on A playe daye/ to ſtand at the do^{r} that goeth vppe to the gallaries of the ſaid Theater/ to take & Receyve for the vſe of the ſaid Margarett/ half the money that ſhuld be gyven to come vppe into the ſaid Gallaries at that do^{r}/ according to the foreſaid Award/ & an order made thervpon by the co^{r}t of Chauncerye/ Requeſting this depo^{t} in very earneſt maner/ to reſiſt no violence or other w^{t}ſtanding of him ſo to do/ that ſhuld be made to or againſt him in ſo doing/ by the ſaid Burbages/ At wch tyme for the better auctho^{e} of the ſaid Margarett ſo to do/ ther was ſhewed fourth in the hande of the ſaid Myles to the ſaid Burbages both the ſaid Arbitrym^{t}/ and Ordre of the Chauncerye/ and requyred the ſaid Burbages to ſuffre the p*er*form*an*ce therof/ But true it is/ the ſaid James Burbage & his wyfe & his ſone Rychard Burbage did w^{t} vyolence thruſt this depo^{t}/ and the ſaid Margarett/ and Robert Myles awey from the ſaid do^{r} going vppe to the ſaid Gallaries/ w^{t} vehement threates & manaſſing/ that yf they dep*ar*ted not from that place/ they wold beate them away/ And ſo indede vpon ſome wordes vttered by the ſaid Robert Myles to the ſaid Burbages wyſſhing them to obey the ſaid Ordre/

the ſaid Ry. Burbage & his mother fell vpon the ſaid Robert Myles & beate him w^t^ A broome ſtaffe calling him murdring knave w^t^ other vyle and vnhoneſt wordes at wch tyme the ſaid James Burbage told the ſaid Robert Myles/ that he had but A paper/ wch he might wype his tale w^t^/ and rather then he wold loſe his poſſeſſion/ he wold com*m*itt xx contemp^tes^/ And by cauſe this depo^t^. ſpake then ſomewhat in the favo^r^ of the po^r^ wom*m*an/ that ſhe did nothing then but by aucthoritie of the ſaid Ordre/ the ſaid Ry. Burbage ſcornfully & diſdainfullye playing w^t^ this depo^tes^ Noſe/ ſayd/ that yf he delt in the matter/ he wold beate him alſo/ and did chalendge the field of him at that tyme/ And the cauſe why the ſaid Robert Myles kept faſt in his hand the ſaid Ordre/ was/ for that the ſaid Burbag*es* wold haue torne the ſame in peeces/ yf they had had the ſame/ in ther handes/ And otherwyſe to this Jnt he ſaith he ca*n*not depoſe/ then he hath before now depoſed on the part & behalf of the ſaid Margarett Brayne/

To the 3. that in his Judgem^t^/ the ſaid Burbages haue com*m*itted g^t^ contempt againſt the co^r^t of Chauncerye aſwell at this tyme as before in not p*er*formi*n*g the ſaid Awarde/ & fulfylling the ſame Ordre/ And that the ſaid Margarett hath in his Judgem^t^ p*er*formed the Ordres of the ſaid Co^r^te/ and wold be glade of the p*er*formance of the ſaid Awarde/

To the 4. that he never heard the ſaid Robert Myles ſaye that the Theatre was his/ or that he had great right therinto/ Or that he wold pull the ſaid Burbag*es* out of the Theater by the eares/ But he ſaithe/ that he hath heard the ſaid Robert and Raphe Myles ſaye/ that they had lade out A g^t^ deale of money for the ſaid Margarett in this Sute/ but how moch in p*ar*ticuler/ he did not heare them ſaye/ And to the reſt of this Jnt*erro*g*atory* he ſaith he can ſay nothing/

To the 5. that he never heard the ſaid Margarett Brayne open or declare/ of any Tytle or promiſſe of Tytle/ the ſaid Robert & Raphe or ether of them ſhuld haue of her/ of & in the ſaid

Theater/ Nor ever heard them or ether of them boaſt/ what they ſhuld gayne therby/ by any graunt from the ſaid Margarett/ But he ſaith that he doth think in his conſcyence/ that the ſaid Robert Myles/ is like to haue ſome Recompence/ or ſome int*ere*ſt from her therof/ yf ſhe recover againſt the ſaid Burbag*es*/ for his charges & travell vſed for her in this Sute/ as this depo^{t} thinketh in his conſcience/ he is worthie to haue in Equitie/
To the 6. that he can ſay no more/ then he hath before ſaid/ to the ſecond Jnterr/ And more he ſaith he ca*n*not ſaye in this matter then he hath now/ & before this tyme ſayd on the parte & behaulf of the ſaid Margarett Brayne/

[Signed] P*er* me Nicholas Byſhopp

INTERROGATORIES TO RALPH MYLES

Interrogators to be mynyſtered to Raphe Myles of Londone ſoapemaker accordinge to an order made the xiij daye of Nouember A° xxxiij° R^{ne} in the cawſe Betwene Margaret Braine p^{l} and James Burbage and Cuthberte Burbage defend^{t*es*}

1 **Item** whither do yo^{u} knowe, or haue yo^{u} herd, ſeene and read an Arbitrem^{t} that was made by one Hill and on Turner betwen James Burbage on the one p*ar*te And John Brayne on the other p*ar*te concerninge the Theatre, And what title therby, was geven to John Braine & his executo^{r} in the ſaid Theatre to yor knowledge,

2. **Item** whither do yo^{u} knowe or haue yo^{u} herd, That in the ſame Arbitrem^{t} yt is expreſſed, That the mony collected at the Theatre ſhuld be to the vſe and for the paym^{t} of ſuch debt*es*, as ether the ſaid Brayne, or the ſaid Burbage ſhould rune into, about the buildinge or repayringe of the ſame Theatre. And that before thoſe debt*es* were paide that the ſaid Braine nor his executo^{rs} ſhuld haue nor enioy the ſame or the p*ro*fitt*es* therof, only x^{s} by the weeke excepted to be defaulked for the ſaid Braine out of

the ſaid profitt*es*, for ſuch plaies as ſhould be ſhewed vpon the ſondaies only. And whither do thei vſe to plaie on the ſondaies ther, yea or no.

3 **Item** whither haue yo^{u} ſeen herd or rede That in the ſame Arbitrem^{t} it is alſo expreſſed. That yf the ſaid Braine or the ſaid Burbage or both of them, had occaſion to vſe any mony for any thinge concerninge the ſaide Theatre or for the paym^{t} of any debt made for or about any matter towching the ſame, That then yt ſhould and might be Lawfull for the ſaid Burbage to mortgadge or ſell the Leaſe to hym made for the levying of ſuche needfull mony. And whither was the ſaid Leaſe of The theatre, mortgaged accordinglie to John Hyde grocer wth conſent of the ſaid Brayne. And whither was yt to him forfeited for none payem^{t} of the money ſo borrowed, yf it were, then what title in yor Judgem^{t} hath the ſaid John Braine or his executrix the p^{l}. to the ſaid Theatre or to the p*rofitt*es therof & how much therof is ſhe in right to haue to yor knowledg.

4. **Item** whither do yo^{u} knowe or haue yo^{u} herd y^{t} the ſaid Braine, ſythenc the makinge of his will, wherby he did appoincte the p^{l} to be his executrix hath & did make a deed of gifte of all his good*es* & Chattells: to on Tomſon, or to yor father, or to one M^{r} Aſhbournha*m*. or to one John Gardyner. And whither did thei or any of them by vertue therof clayme the good*es* & Chattells of the ſaid Brayne. and his title in the ſaid Theatre. yea or no. And what is the cawſe whi thei nor none of them do now ſhew forth the ſame but conceale the ſaid deed or deed*es* of gifte to yor knoweledge.

5. **Item** whither did the p^{l}. and Robert Myles yor father place Collecto^{rs} at the doares of the Theater, vnder the cullor of an order made in the Chauncery that aſwell the p*ar*tie playntife as thes defendant*es* Burbage ſhould p*er*forme the Arbitrem^{t} aboue ſaid. ffor what pourpoſe were the ſaid Collecto^{rs} ſo placed at the Theatre And whither did the p^{l} then and ther ſhewe fourth the ſaid Arbitrem^{t} and offerr to p*er*forme the ſame to thes defend^{t}*es*

And whither did the ſaid defend^{tes} or any of them require to ſee the aucthoretie the p^{l} had to place any collectors ther, And whither did ſhe ſhewe her aucthoretie. And whither hath ſhe befor that tyme or ſynce that tyme p*er*formed the ſaid Arbitrem^{t}. And yf ſhe haue then ſhewe wherin & in what poinctes ſhe hath p*er*formed the ſame, And in what poinct*es* thes defend^{tes} haue not p*er*formed the ſame. And whither did ſhe at the ſame tyme require thes defend^{tes} to p*er*forme the ſame Arbitrem^{t}. And what matter did ſhe require them to p*er*forme conteyned in the ſaid Arbitrem^{t}.

6. **Item** wherin do yo^{u} knowe that the defend^{tes} haue, or any of them hath, comitted contempt againſt the Court of Chaunceri, or againſt any order made in the ſame Court, yf thei haue then ſhewe wherin.

7. **Item** whither do yo^{u} knowe, or haue herde that James Burbage on of theis defend^{tes} by his deed in wryting wth the adviſe and conſent of the ſaid John Brayne did convey or graunte any parte of the Theatre and profitt*es* therof to one Henry Lenman. And whither doth he yet receyve and collect and take any p*rofitt*es of the ſaid Theatre ſo graunted. And whither doth the playntiff knowe therof or that ſhe knewe of the ſaid graunt in thee lief tyme of her ſaid huſband yea or no. yf ſhe did knowe therof, Then whi doth ſhe now clayme a Moitie of the ſaid Theatre of thes defend^{tes}.

8. **Item** whyther hath the p^{l} geven or graunted, or promyſed to gyve or graunt, to yor father, or to yo^{r}ſealf her pretended title in the ſaid Theatre. Or what p*ar*te therof haue yo^{u} or are yo^{u} to haue, And what p*ar*te therof is yor father to haue, ſo ſoane as, or after the ſame ſhall be recovered of the p^{l}, fro*m* the defend^{tes}. And what ſome of mony did yo^{u} gyve to one Henry Bett, to comence ſutes or plaintes in the name of the p^{l}. againſt the defend^{tes} or any of them for the recoverie of the ſaid Theatre. And by what aucthoretie or title did yo^{u} ſo delyver monye for mayntenance of ſuch ſutes. And whither did yo^{u} or yor father ſaie that the Theatre was his,

and that he would ſpend all that he had but he would pull the defend^{t} out of the ſaid Theatre by the eares. yea or no.

9. **Item** whither did yo^{u} at ſuch tyme as Rob*er*t Myles and the p^{l} did place Collecto^{rs} at the doares of the Theatre as is aforſaid heare James Burbage ſaye thes wordes: Conſcienc. Gods bloud what tell yo^{u} me of conſcienc or orders. Or thes wordes. I care not for any contempt. Or thes wordes I care not for .iij. of the beſt Lord*es* in England. Yf yo^{u} did heare them, then who was by and p*re*ſ*e*nte when you herd theſe word*es* And to who*m* were thei ſpoken.

DEPOSITION OF RALPH MYLES

Raphe Myles ſone of Robert Myles of Whyte Chapell pariſhe w^{t}out Allgate london Bacheler/ of the age of xxvij yeres or ther-about*es*/ ſworne and ex^{d} the xxvj daye of Aprill in the yere aforeſaid xxxiiijth &c^{r} To the firſt Jnt. that he doth know and hath ſene & redde/ an Awarde that was made by one Turno^{r}/ and one Hill/ betwene James Burbage/ of the one p*ar*te and Jo. Brayne deceſſed of the other p*ar*te/ concern*in*g A controvercye betwene them about the Playehouſſe called the Theater by wch awarde the ſaid Brayne was entytled to haue the one Moytie of the Rent*es* and profitt*es* Ryſing & com*in*g by & of the ſame Theatre/

To the 2. that it is p*ar*cell of the ſaid Awarde/ that the money Receyved and taken of the Rent*es* and proffitt*es* com*in*g of the ſaid Theatre/ ſhuld be to the vſe & for the payment of ſuche debt*es*/ as ether the ſaid Brayne/ or the ſaid Burbage were then in/ for the building and repayring of the ſaid Theatre/ And that before thoſe debt*es* were ſatiſfyed & diſcharged nether the ſaid Brayne/ nor the ſaid Burbage/ nor ther Executo^{rs}/ ſhuld haue nor enioye any p*ar*te or p*ar*cell therof to his or ther owne vſe/ but onlye that the ſaid Brayne ſhuld haue x^{s} by the weeke for & toward*es* his houſe keeping/ and the ſaid Burbage to haue viij^{s} as he reme*m*breth weekelye out of the ſame for & towardes his houſe keping

of the profitt*es* of ſuch playes as ſhuld be playd there vpon ſundaies/ And that when the ſaid debt*es* were diſcharged/ that then the ſaid Brayne ſhuld take & Receyve all the Rent*es* and proffitt*es* of the ſaid Theatre/ to his own vſe/ till he ſhuld be anſwered/ ſuche ſomes of money wch he had lade out/ for & vpon the ſame Theatre/ more then the ſaid Burbage had done/ And then the Rent*es* & p*ro*fitt*es* of the ſame/ to go in devydent equallye betwene them/

To the 3. that it is alſo p*ar*cell of the ſaid Awarde/ That yf the ſaid Brayne & Burbage/ ſhuld haue any occaſion to vſe any money nedefull to be beſtowed vp*p*on the ſaid Theatre/ or for the paym^{t} of any money towching the ſame/ that then it ſhuld & might be lawfull for the ſaid Burbage and Brayne/ to morgage the leaſe therof for A ſom*m*e of money for that purpoſe/ And ſaithe that true it is, the ſaid leaſe w^{t} bothe ther conſent*es* was morgaged to Jo. Hyde grocer of london vpon the ſome of one Cxxv^{li}/ as he hath credible heard/ And y^{t} by report they forfetted the ſaid leaſe to the ſaid Hyde/ for nonepaym^{t} of the money lent vp*p*on the ſame/ Albeit the ſaid Hyde, did frome tyme to tyme promes & beare in hand the ſaid Brayne in his lyfe tyme and to his wyfe the now comp^{l} ſyns his deceſſe the ſaid Braynes Executrice/ that he wold take no forfetture of the ſame/ yf he were payd his money due/ and ordinarye co*n*ſideracion for the forbearing therof/ And therfor this depo^{t} thinketh in his conſcience/ that the now comp^{l} hath as great int*er*eſt in the ſaid leaſe/ as the ſaid Burbage hathe/ ffor he ſaithe/ that whan the ſaid Burbage and his ſone/ by pollycie betwene them/ did Redeme the ſaid leaſe/ ther was no more owing to the ſaid Hyde/ but xxx^{li} or therabout*es*/ as the ſaid Hyde co*n*feſſed to this depo^{t}/ in the wch Redempcion/ the ſaid comp^{l} had bene well hable to haue Joyned/ yf the ſaid James Burbage had ether ſuffered her to haue had her Moytie of the proffitt*es* of the ſaid Theater, as by the ſaid Award ſhe was to haue had/ or had gyven her warni*n*g of his intent for the Redempcion of the ſame/ And further ſaith/ that he this depo^{t} doth well Reme*m*ber that the ſaid comp^{l} did offer to the ſaid

Hyde/ in this depo^{tes} p*re*ſ*e*nce/ to paye him ſo moch as was behynde of his Money lent w^{t} conſideracion therfore/ yf he wold deliu*er* the ſaid leaſe to her/ & that the ſaid James ſhuld haue his Moytie of the proffitt*es* therof, aſwell as ſhe/ But he made anſ*wer*/ that as it was morgaged vnto him by both her huſband Brayne/ and Burbage/ ſo would he deliu*er* it vppe/ to both Burbage & her/

To the 4 that he ca*n* ſay nothing

To the 5. that he ca*n* ſay nothing

To the 6. that true it is/ that at ſuche tyme he this depo^{t} & others went at the comp^{ltes} Requeſt w^{t} her to the now def^{tes}/ to Requyer them to p*er*forme the ſaid Awarde/ as by an Ordre made in the Chauncerye they were ordred to do/ the ſaid James Burbage wyfe/ charged them to go out of her grounde/ orelles ſhe wold make her ſone breake ther knaves heades/ and ſo hottelie rayled at them/ And then the ſaid James Burbage her huſbande looking out at A wyndoe vpon them/ called the comp^{l} murdring ho^{r}/ and this depo^{t} & the others villanes Raſcalls and knaves/ and then the comp^{l} ſayd vnto him/ that ſhe was come to requyre of him the p*er*formance of the award/ as the Co^{r}te of Chauncerye had ordred to do/ and then he cryed vnto her/ go go/ A Carte A cart for yo^{u}/ I will obey no ſuch ordre/ nor I care not for any ſuch ordres/ and therfor it were beſt for yo^{u} and yor companyons to be packing by tymes/ for yf my ſone Come/ he will thumpe yo^{u} hence/ W^{t} that in maner his ſone came home/ of whome the comp^{l} did alſo Requyer the performa*n*ce of the ſaid Award, according to the ſaid Ordre of the Chauncerye/ and then he in verye hotte ſort/ bidd them gett them thence/ orelles he wold ſett them forward*es*/ ſaying I care for no ſuche Ordre/ the Chauncerye ſhall not gyve away what I haue payd for/ Nether ſhallt thow haue any thing to do here/ Whille I lyeve/ gett what Ordres thow canſt/ And ſo w^{t} great & horrible othes vttered by both him

& his ffather/ that they wold do this & that/ the compl and her company went ther wayes/.

To the 7. that he can ſay nothing to any effecte

To the 8. that by the othe that he hath taken/ he knoweth of no graunt or promes made by the compl/ ether to this depot/ or to his ffather of the complt*es* Tytle in the Theatre/ nor more can ſaye to that poynt of this Jnt*errogatory*./ And to the reſt of this Jnterr*ogatory* concern*i*ng Bett named in the ſame/ he ſaithe that he ca*n* ſay no more but this/ That whan (on a tyme) the ſaid Bett at the Requeſt of the compl did p*er*vſe her wrytinge*s*/ he did (whan he had done and told her what everye of them concerned) require money for his paynes/ But the compl having none to gyve him/ ſhe prayd this depot to lend her A cople of ſhillinge*s*/ and this depot lent her the ſame/ and ſhe gave Bett the ſame/ Whervp*p*on the ſaid Bett went & diſcloſed to the defendt*es*/ the whole ſtory that he conceyved of her wrytinge*s*/ and ſo hath ever ſyns that tyme wroght wt them what he could/ againſt the ſaid Compl/ And otherwyſe to this Jnt*errogatory* he ſaid he cannot depoſe/

To the 9. that he can ſay nothing/ ffor he was not p*reſe*nt at ſuche wordes or ſpeeche/ Nor more can ſaye to any further effect to all the foreſaid Jnterr*ogatories*/

[Signed] p*er* me Raphe Miles

INTERROGATORIES TO JOHN ALLYN

Interrogators to be mynyſtered vpon the p*ar*te and behaulf of James Burbage and Cuthbert Burbage, to John Allyn, accordinge to an Order made the. xiijth of Nouembr A° xxxiij Rne.

1. **Imprimis** whither do you knowe, or haue you herd, ſeene or rede, an Arbitremt that was made betwene John Braine whileſt he

lyved, and James Burbage by one Turner and Hill. What title therby was geven to the ſaid John Brayne & his executo^{rs} of and in the Leaſe of the Theatre in Hallywell made to the ſaid James, by on Gyles Allyn. And whither do yo^{u} knowe that on Henry Lenman hath or had any p*ar*te of the profitt*es* of the Theatre. Yf he had, then who graunted to him the ſame. And how longe is yt ſince he receyved ſuch p*ro*fittes to yor knoweledge. And how longe is he yet to receyve the ſame as yo^{u} haue herd. And whither did John Braine agree that Lenma*n* ſhould receyve y^{e} ſame

2 **Item** whither did Margaret Braine, and Rob*er*t Myles, in yor preſence place Collecto^{rs} at the doares of the Theatre to collect the profitt therof, vnder the cullor of an order made in the Court of Chaunceri. That aſwell the p*ar*tie p^{l}. viz the ſaid Margaret, as the ſaid James Burbage and Cuthbert Burbage defend^{t*es*} ſhuld p*er*forme the Arbitrem^{t} aboue named. And whither did the ſaid Margaret at that tyme ſhewe furth the ſaid Arbitrem^{t}, or offerr to p*er*forme the ſame to the ſaid defend^{t*es*} And whither did the ſaid James Burbage require the ſame, & to ſee the^{r} aucthoretie*s* thei had to place the ſaid Collecto^{rs}. yea or no. And whither did not the p^{l}. refuſe plainli to p*er*forme the requeſt*es* of the ſaid Burbedge. Yea or no.

3. **Item** wherin do yo^{u} knowe that the defend^{t*es*} haue, or any of them hath comitted any contempt againſt the Court of Chaunceri, or what order hath thei or ether of them broken in Contempt of the ſame Court to yor knoweledge.

4. **Item** whithe^{r} hath the ſaid Myles confeſſed to yo^{u}. That he had to do wth the ſaid Theatre, and that the ſame was his. And that he would pull the defend^{t*es*} Burbag*es* out therof by the eares. yea or no. And whither hath he confeſſed that he and his had more to do ther then Burbege had and that his title therof viz of the ſaid Theatre was better then Burbages. And that he had

his title from the p[l]. How longe is yt ſynce he vſed thes wordes to yo[u]. Yf the ſaid Myles did not vſe thes wordes to yo[u] or ſuch like, then whi did yo[u] tell the ſaid James Burbage, that he vſed ſuch wordes to yo[u]. And whi did yo[u] require the ſaid James to conceale whatſoeu*er* yo[u] tould to hym of the ſaid Myles, to the end yo[u] might Lerne of the ſaid Myles his whole p*rocedinges* therin.

5. **Item** whither did not Raphe Myles the ſonne of the ſaid Rob*ert* Myles, afferme to yo[u] that the word*es* and ſpeaches of the ſaid Rob*ert* were true. And what ſomes of mony did thei or ether of them ſweare thei would ſpend to ouerthroe the ſaid Burbage. And what wordes hath the ſaid Ralphe vſed to yo[u] about the ſaid Theater, and his or his fathers title therin to yo[r] remembraunce/

6. **Item** whither haue not yo[u] byn preſent in the lief tyme of Brayne, when he and Burbedge did delyver the one haulf of the profitt*es* collected by them at the Theatre to the aboue named Henry Lenman or his deputes. And ſync his death by the ſaid Burbage. And whither do yo[u] thincke that the ſaid Lenman had any right to haue ſuch p*rofittes*. Yf he had whi do yo[u] ſweare That y[e] p[l] hath good right and title to haue haulf the p*rofittes* collected in the Theatre/ And whither were the wordes w[ch] yo[u] alledge to be ſpoken by James Burbage viz thes word*es*. (Conſcienc God*es* bloud, what tell yo[u] me of Conſcienc, or orders. or thes word*es* I care not for iij of the beſt men in England. Or that he would Committ xx contempt*es* &c) whither were thei ſpoken when the ſaid Myles or the p[l] did place Collecto[rs] at the Gates of the Theatre by force of the order aforſaid. Or when were thei ſpoken and who was p*reſen*te when thei were ſpoken to yo[r] knowledge And in what place. And whither were thei ſpoken to the plaintif yea or no.

DEPOSITION OF JOHN ALLEN

Johne Allen late of the p*ariſhe* of S[t] Buttollphes w[th]out Biſhops gate London ffree of the company of the Jnholders of london of

the age of xxxv yeres or therabout*es* ſworne and ex^{d} the vjth daye of Maye in the yere aforeſaid & ct^{r} To the firſt Jnt*erroga-tory*/ that he hath crediblie heard ſaye/ that ther paſſed an Arbitrym*en*t or An award betwene James Burbage of the one part/ and Jo. Brayne named in this Jnt*errogatory* now deceſſed on the other p*ar*te/ co*n*cern*in*g the co*n*trou*er*cye betwene them of the p*ro*fitt*es* of the play houſe of the Theater/ by the wch Arbitrym*en*t/ (as this depo^{t} did heare ſaye/ the one half of the proffitt*es* of the ſaid Play houſe was awarded to the ſaid Brayne his executo^{rs} and aſſignes/ and the other half to the ſaid James Burbage/ his executo^{rs} and aſſignes/ And ſaithe/ that one Henrye Laynman*n* had (and as he thinketh yet hathe & doth receive) part of the proffitt*es* of the ſame/ & ſo muſt till Mych*aelm*es now next com*in*g but by whoſe graunt/ he knoweth not/ But wheth^{r} the ſaid Brayne did conſent therunto/ he knoweth not/

To the 2. that to his now Rem*em*bra*n*ce, he can ſay no more, then he hath hertofore depoſed on the compl*ainantes* behaulf to the 13 Jnt*errogatory*. And further ſaithe, that at the ſame tyme whan the ſaid comp^{l}, and the ſaid Robert Myles came to demaund of the ſaid James Burbage & of his ſone/ the p*er*form*an*ce of the foreſaid Arbitryment/ and ordre of the Ch*a*uncery co*n*cern*in*g the one half of the proffitt*es* of the ſaid Theater/ the ſaid comp^{l} and Myles/ ſemed to be readye & willing w^{t}out any deniall to ſhew to them/ by what auctho^{e} they were to haue the ſame/ yf the defend^{t}*es* wold haue demaunded the ſame/

To the 3. that he doth verelie thinke/ that the ſaid James Burbage hath co*m*mitted A contempt to the ſaid hon*or*able Co^{r}te of Chauncerye/ in Maner & fourme/ as this depo^{t} hath depoſed vp*p*on his othe before to the ſame 13. Jnt/ on the compl^{t}*es* behalf/ wherunto/ for the better proof therof/ he doth referre him ſelf/

To the 4. that the ſaid Robert Myles did at no tyme confeſſe to this depo^{t}/ that he had any thing to do w^{t} the ſaid Theater then as A freind by the compl^{t}*es* l*ett*re of Atto^{r}ney to do for her in the

ſame/ Nor ever heard him ſaye that he wold pull the ſaid James Burbage out of the ſame by the eares/ Nether dyd this depo^{t} tell the ſaid James burbage or any of his ſones/ any ſuche tale of the ſaid Myles/ Nor ever byd the ſaid Burbag*es* or any of them to conceyle y^{t} he had told him or them/ any ſuche word*es* of the ſaid Myles/ nor any ſuche ſpeche to that effect/ to his nowe Reme*m*bra*n*ce/

To the 5. that ther hath paſſed at no tyme/ any ſuche ſpeche betwene the ſaid Robert Myles or Ra*l*phe his ſone to this depo^{t} as are ſett down in this Jnt*errogatory*/

To the 6. that in the lyfe tyme of the ſaid Brayne/ this depo^{t} did not ſee Burbage & Brayne gyve or deliu*er* the one half of the proffitt*es* of the ſaid Theatre/ to the foreſaid Henry le*n*man*n*/ But he ſaith/ that he hath ſene the ſaid Burbage paye to ſome/ to the vſe of the ſame le*n*man*n*/ ſome money of the ſame profitt*es*/ ſyns the deceſſe of the ſaid Brayne/ wch profitt*es* (as this depo^{t} hath heard the ſaid James Burbage ſaye) were due vnto the ſaid Lenman*n*/ and that he & the ſaid Brayne were both bounde by wryting to paye the ſame vnto him/ in conſidera*c*ion that the ſaid lenman*n* did graunt vnto them the one half of the proffitt*es* of the other play houſe there by/ called the Curten/ in wch half he doth thinke the comp^{l} is to haue her devydent w^{t} the ſaid Burbage/ aſwell as her moytie of the Theater/ And ſo ought ſhe to haue the whole moytie of the Theater/ by the ſaid Arbitryment & ordre & half of the other Moytie of the p*ro*fitt*es* of the Curten/ by the Agrem^{t} w^{t} the ſaid Le*n*man ſo long as the tyme of the ſame Agreem^{t} is to endure/ And ſaith that the word*es* menconed in his former Exa*m*ina*c*ion/ to the 13 Jnt*errogatory* ſpoken by the ſaid James Burbage/ viz/ Conſcience/ God*es* blood what tell yee me of conſcience/ or Ordres/ that he cared not for any Contempt/ & yf there were xx contempt*es*/ & as many Jniunc*c*ions he wold w^{t}ſtand & breake them all before he wold loſe his poſſeſſion/ were vttred w^{t}in the Theater yard/ whan the comp^{l} and the ſaid Myles came to deſyre him to p*er*forme the ſaid Arbytry-

ment & ordre/ wch he thinketh to be about A yere paſt in the hearing of one Nych*ol*as Biſhopp/ this depo^t^ & others/ And the other wordes ſpoken by him/ menconed in the ſame 13 Jn*terroga-tory* of his ſaid former Exa*min*acion/ viz. I care not for three of the beſt lordes of them all/ were vttered by him in the Attyring houſſe/ or place where the players make them readye about viij daies next after/ in the hearing of one James Tunſtall this depo^t^ and others/ And this for his true anſ*wer* to all theſe Jn*terrogatories*/

[Signed] Jo^n^ Allein

[When Dr. Legg and Dr. Stanhope were ready to make their report after considering the preceding voluminous evidence, namely, in April, 1593, Widow Bayne died, and the suit naturally died with her. But by her will, dated 8 April, 1593, and proved 3 May, following, she left her supposed interest in the Theatre and all her possessions to Robert Myles. Thereupon, as legatee and executor, Myles filed a bill of revivor, which is lost, and the case proceeded to the end in his name.]

BRAINE *v.* BURBAGE

Idem. Bdl. 226, No. 11. Trinity 34 Elizabeth (1592).

Jo: Grigg*es* et Robertus Myles
jurati 29 Julij 1592 cora*m*
Jo: Hone./

Intergatories to be mynyſtred on the pa*r*te and behalf of Margarett Braynes Wydowe Complaynaunte agaynſt James Burbadge, Cuthberte Burbadge, and others Defenda*n*^tes^./

1. **Imprimis** whether doe ye knowe the pa*r*tye Complaynante Margarett Brayne, and James Burbadge, and Cuthbert Burbadge and other the Defendant*es*, ye or no. Yf ſo then whether doe ye not knowe one Gyles Allyne gentleman ye or no, And whether was not he ſeazed of a vacante peace of grounde a Myll howſe,

and certaine other tenem^{tes} in St Leonard*es* in the pariſhe of St Leonard*es* in Sordyche in the Countye of Midleſex, ye or no

2 **Item** whether have you heard or knowen of yor owne knowledge of any Conference that was had betwene the ſayd James Burbadge and one John Brayne diſceaſed of the takinge of the ſayd peace of vacante ground in Leaſe and other the land*es* and tenement*es* at the hand*es* of the ſayd Gyles Allyne, and whether did not the ſayd James deſyre the ſayd John Brayne to ioyne wth him in takinge thearof to the intente to buylde a theato^{r} or a playinge howſe, and declared what greate proffitt woulde ryſe vnto them bothe by yt, yf they ſo did, And what was the Aunſweare of the ſayd John Brayne therevnto to your remembraunce./

3 **Item** whether did not the ſayd James earnestlye intreate him to ioyne wth him in takinge of yt, otherwyſe he was not able to buylde yt, for yt woulde Coſte fyve tymes ſo muche as he was worthe, And whether did not the ſayd John Brayne and he agree ſo to doe, And that yt ſhoulde be taken at Allyns hand*es* only in the name of Burbadge, but notwthſtandinge to the vſe of bothe.

4. **Item** whether was not a Leaſe thearof taken accordinglye of the ſayd Gyles Allyne wth Covenaunt*es* therin Conteyned to buylde the ſayd Theato^{r} or playinge place, And whether did not the ſayd James Burbadge after the takinge thearof p*ro*mys the ſayd John Brayne to aſſure him of a moitye of the theato^{r} and the p*ro*ffitt*es* thearof after yt was buylt together wth the other land*es* and tenem^{tes}, and bounde him ſelf in a bonde ſo to doe./

5. **Item** whether did not the ſayd John Braynes (Jmmediatlye after that p*ro*myſe) make a greate ſome of money to the intente to erecte & buylde the ſayd howſe, and then hyred workemen p*ro*vyded tymber, and other neceſſaryes to builde yt wthall, and whether did not he beſtowe in buyldinge therof the ſom*m*e of one thouſand Markes at the leafte for his p*ar*te and whether did not

he vtterlye forſake hys trade of livinge, the wch he had before planted himſelf in to his greate p*ro*ffitte, and by the meanes of the ſayd James Burbadge did forſake yt, and wholly imploye himſelf and all that he coulde make about the theato^{r} in ſellinge all his ſtocke, and was not he therby vtterlye vndone./

6 **Item** what thinke you that the ſaid James Burbadge beſtowed for his p*ar*te, and whether was he able to beſtowe the ſom*m*e of one hundred pounde, or was of ſuche Credytt, that he was able to make the ſom*m*e of one hundred mark*es* to helpe to buylde yt, & was yt not wholy donne in effecte wth the money of the ſayd John Brayne, & by his Credyt, And what you knowe hearin, ſpeake your knowledge./

7 **Item** when yt was buylt, and divers playes therin p*er*formed, and greate ſom*m*e and ſom*m*es of money Collected by ſuche as did repayre thither to ſee them, whether did not the ſaid Burbadge Contrary to hys owne p*ro*myſe therin, wch was that the ſayd John Braynes ſhoulde have half the p*ro*ffitte of all the p*re*miſſes, often tymes filche out of the Com*m*one boxe by a Counterfayte keye to open yt, divers greate ſom*m*e & ſom*m*es of money in defraudinge of his Companyons and the ſaid John brayn And whether did not the ſaid James Burbadge often tymes hyde money in hys boſome or aboute himſelf of ſuche money as was gathered, and ſhoulde have bene equallye devyded betwene them, & keptt yt to himſelf & what you knowe thearin, ſpeake yor knowledge or in eny other his like bad practiſſes as that yo^{u} haue hard or knowe//

8 **Item** whether doe ye knowe of yor owne knowledge, or have hearde ſaye, that divers Controu*er*ſies & Contentions weare betwene the ſayd James Burbadge, & the ſaid John Brayne touchinge the ſayd Theato^{r}, & whether did not they ſubmitt them ſelves vnto the Arbitrament of Certayne p*er*ſones for the pacificacion of all matters betweane them, and whether did not the ſaid Arbitrato^{rs} awarde that the ſayd James Burbadge hys executo^{rs}, & Aſſignes ſhoulde enioye the one moitye of the p*ro*ffitt*es* of the

premyſſes, & the ſaid John Brayne his executo[rs] & Aſſignes ſhoulde enioy the other moitye of the p*ro*ffitt*es*, ye, or no.

9 **Item** whether did not they awarde alſo, that yf occaſione ſhoulde be to morgage the p*re*miſſes for the borrowinge of money to paye debt*es* for the p*er*fourminge of any neceſſarye thinge concearninge the theato[r], that then bothe they ſhoulde ioyne in morgage, & the money Cominge & ryſinge of the p*ro*ffitt*es* of the ſaid Theato[r], to goe to the redempc*i*on of the ſaid morgage, ye or no

10 **Item** whether did not the ſaid James Burbage & the ſaid John Braynes accordinge to the ſayd Arbitrament morgage the ſayd Theato[r] & other the p*re*myſſes vnto one John Hyde Citizen & groſer of London for the fom*m*e of one hundred twentye & fyve pound*es* or thereabout*es* to be payed at a certayne day & tyme in the ſaid morgage limitted, yea, or no.

11 **Item** whether was the ſayd Theato[r] & other the p*re*miſſes forfaited vnto the ſayd John Hyde ye or no for that he was not payed his money at ſuche daies & tymes, as was by the ſayd morgage agreed vpon ye or no.

12 **Item** what fom*m*e or fom*m*es was payed vnto the ſayd John Hyde by the ſayd John Braynes & the ſayd James Burbadge in the lyf tyme of the ſayd John Braines before the forfaiture of the p*re*miſſes, & what fom*m*e or fom*m*es of money was left vnpaid at the tyme of the deathe of the ſayd John Braynes, for the w[ch] yt was morgaged for, & what ys payed ſythence hys deathe/

13 **Item** whether did not the ſayd John Hyde often tymes ſaye vnto the ſayd John Brayne & the ſayd James Burbadge & vnto the nowe Comp[l] & others, that yf he weare payed his money that was dewe, & conſideracion for the fore bearinge of yt, that he woulde neu*er* take any advantage of the fforfayture ye or no./

14 **Item** whether did not the ſaid John Hyde p*ro*myſe vnto the ſayd

Compl*ainant,* that yf he weare payed hys money that then he woulde aſſure the p*re*myſſes vnto the ſaid Compl*ainant,* & vnto the ſaid James Burbadge becauſe he had yt from the houſband of the ſaid Compl*ainant*: & the ſaid James Burbadge, & nowe by the deathe of her houſbande his p*ar*te belongeth to the ſaid Compl*ainant,* & the rather to for that he was payed all his money ſavinge thirtye poundes or therabout*es* in the lyf of the ſaid Braynes, by the meanes of the ſaid Braynes, & what you knowe hearin, ſpeake yor knowledge./

15 **Item** whether did not the ſayd Margarett Brayne offer to paye the ſayd thirtye pound*es* vnto the ſayd John Hyde yf he woulde reaſſure the p*re*miſſes over to her, & yf he woulde ſo doe, ſhe ſhoulde be bounde to Convaye over a moitye thearof vnto the ſaid James Burbadge, in ſayinge that althoughe Burbadge woulde defeate her of her right, yet ſhe woulde not ſo deale wth him, & what Aunſweare made the ſayd John Hyde therevnto.

16 **Item** whether did not the ſaid James Burbadge deteyne the p*ro*-ffite*s* of the p*re*miſſes in his owne hande*s* of p*ur*poſe to make a forfayture vpon the morgage, & therevp*p*on to take yt againe in his owne name or to his owne vſe in the name of his chylde or freinde, ye or no, & whether did not the ſayd James after the deathe of Braynes vtterly denye the ſayd Complaynant to receave any more p*ro*ffitte*s* of the p*re*miſſe*s*: Contrary to the arbitram^t^, whearebye the ſaid John Hyde was not payed his money accordinge to the ſaid arbitramente wth the p*ro*ffitte*s* of the p*re*miſſes as yt ought to have bene by the awarde./

17 **Item** whether did not the ſaid James Burbadge intreate the ſayd John Hyde to Convaye the p*re*myſſe*s* vnto Cuthbert Burbadge his ſonne of p*ur*poſe to defeat the ſaid Compl*ainant* of her right of the moitye in the p*re*miſſes, & whether did not he p*ro*cure Mr Cope to labo^r^ in hys behalf wth Mr Hyde to Convaye yt to hys ſonne Cuthbert to the vſe of the ſayd James ye or no, Yf ſo then whether did not the ſayd John Hyde ſaye that ſhe ſhoulde have her moitie

before he woulde Convaye the p*re*miſſes, excepte bothe the ſayd James & the ſaid Cuthbert woulde p*ro*miſſe that ſhe ſhoulde have her moitie & right at their hand*es* ye or no, & what you knowe hearin, ſpeke yor knowledge

18 **Item** whether did not the ſayd James & Cuthbert often tymes ſythence the redemption therof, p*ro*miſe the ſayd Compl*ainant,* that ſhe ſhoulde have her moitye in the p*re*miſſes, as her houſbande had, & for that p*ur*poſe he ſuffred her to enioy yt for a tyme, vntill he had obteyned his p*ur*poſe, and after putt her moſte vnconſcionablye from yt./

19 **Item** what ſom*m*e or ſom*m*es of money or other p*ro*ffitt*es* hathe the ſayd James Burbadge and Cuthbert Burbadge received for the Theatour and other the premyſſes ſythence the laſte accompt or reconinge made between the ſayd John Braynes and James Burbadge to yor knowledge or remembraunce, and what ye knowe hearin ſpeake yor wholl knowledge and what doe ye thinke the ſaid Braines beſtowed in buildinge of the theato^{r} for his p*ar*te, & what money ys owinge vnto him by any of the Burbadges to yor knowledge, and what money hathe the ſayd Burbadge beſtowed./

Scott [attorney]

[Here ended the original list of interrogatories. Then, before witnesses were examined, questions 20, 21, 22 were added.]

20 **Item** wheather doe yo^{u} knowe that thear was an order in her Maties Courte of Chauncery the xiijth of November in the xxxijth yeare of her highnes Reigne That Margaret Brayne pl*aintif* and James Burbadge and Cutbarte Burbade def*endants* mad the xijth day of Julie in the xxth yeare of her graces Reigne Betwixt the ſaid John Brayne one the one p*ar*tie And the ſaid James Burbadge one the other p*ar*tie by Rychard Turner and John Hill Arbitratores. Confearninge the Theavter in Holloway and the p*ro*ffites theareof./

21 **Item** wheather haue the ſame James Burbadge and Cutbarte

Burbadge performed and accompliſhed the ſaid Arebitrement ackordinge to the ſaid order yea or noe/

22 **Item** in what poyntes haue the ſaid James Burbadge and Cutbarte Burbadge or eyther of them or any other perſon compriſed in the ſaid order broken or infringed the ſaid Arebitrement or order and herein diſcouer yor whole knowledge//

DEPOSITIONS

Ex parte Margarete Braynes vid*uae* q*uerentis* verſ*us* Jacobum Burbage et Cuthbertu*m* Burbage def*endentes* Teſte exa*minato*re per Hen*ricum* Johnes in Cancellar*ia* Exa*min*atorem/

Johne Grigg*es* of Puddinglane london Carpinter of the age of xliij yeres or therabout*es* ſworn and ex^{d} the xxix daye of Julye in the xxxiiij yere &c To the firſt Jnt*errogatory*. that he doth knowe all the p*ar*ties p^{l} and Defend^{tes}/ And knoweth Gyles Allen gent*leman* named in this Jnt*errogatory*. And ſaith that the ſaid Gyles Allen was owner & ſeyſed of A pece of voyd grounde, A mill houſe, and other howſes or tenem^{tes} in the pariſhe of S^{t} leonardes in Shordiche wthout Biſhops gate london/

To the 2. that he doth knowe that James Burbage one of the nowe Defend^{tes}, and John Braynes deceſſed named in this Jnt*errogatory* the now compl^{tes} late huſbande/ did take A leaſe of the ſaid Gyles Allen of the ſaid voyde pece of grounde & of the ſaid myll houſſe/ & other the ſaid p*re*miſſes/ But what conference or co*nver*cac*i*on paſſed betwene the ſaid James and the ſaid Jo. Brayn co*n*cern*i*ng the taking of the p*re*miſſes of the ſaid Mr Allen/ or conc*er*ning what profitt & com*m*oditie wold grow vnto them therby by building A playe houſe thervp*p*on/ he ſaith he was never pryvie therof nor p*re*ſ*e*nt therat/

To the 3. that he did heare it crediblye reported/ that it was agreed betwene the ſaid James Burbage/ and the ſaid Brayne/

y^{t} the ſaid leaſe ſhuld be made in the name onlye of the ſame James/ and yet to the vſe of them bothe/ and otherwyſe to this Jnt*errogatory* he ſaithe he ca*n*not depoſe

To the 4. that he ca*n*not tell what the co*n*tente*s* or covena*n*te*s* of the ſaid leaſe were/ Nor more can ſaye to this Jnt*errogatory*. ſaving he ſaith that he hath heard & beleveth it is true/ that the ſaid James Burbage ſtandeth bounde to the ſaid Braynes/ that during the ſaid leaſe/ the ſaid Braynes his executo^{rs} or aſſignes ſhuld haue & Receyve the one half of the Rente*s* & proffitte*s* that ſhuld ryſe & growe by & of the ſame/

To the 5. that he doth knowe/ that vpon ſuche promiſſes and ſpeche as paſſed frome the ſaid James Burbage to the ſaid Braynes/ of the g^{t} welth and profitt that ſhuld ryſe vnto them/ by buildyng A Theater or playe houſe/ & other buildinges vpon the ſaid voyd grounde/ he the ſaid Braynes being A man of g^{t} welth, and of A welthie Trade/ p*ro*vided A g^{t} ſome of money/ hyred wo^{r}kmen/ provyded Tymber and all other nedefull thinge*s* for the building of the ſaid Theater in ſomoche/ that this Depo^{t} thinketh in his conſcience he beſtowed thervp*p*on for his part what firſt and laſt/ the ſome of one thowſand m*ar*ke*s* at the leaſt/ wherby hoping of the g^{t} welth that ſhuld ryſe vnto him by the ſame/ he gave vppe his trade/ ſold his ſtocke/ his houſe he Dwelt in/ in Bucklers berye london/ & wholye ymployed all he could make towardes the ſaid Buildinge*s*/ and ſetting fourthe the ſame/ to his own vtter vndoing at the laſt./

To the 6. that he [*doth verelie thinke, that* (stricken out)] ca*n*not certenlie tell how moche the ſaid James burbage beſtowed for his part vppon the building of the ſaid Theater & other the p*re*miſſes/ But he ſaith that he doth thinke in his conſcience/ that the ſaid James Burbage was not at the tyme of the firſt begynni*n*g of the building of the p*re*miſſes/ wo^{r}th aboue one C m*ar*ke*s* in all his ſubſtance/ for he & this Depo^{t} were familierlie acquainted long before that tyme/ and ever ſyns/ So as he verelie thinketh the

ſaid James Burbage hath not in all beſtowed thervp*p*on/ the full value of one hundreth poundes/ but that it was the money and goodes of the ſaid Braynes that ſett vppe & fyniſhed the ſame/ w^t^ the helpe of the profitt*es* that grewe by playes vſed there/ before it was fully finiſhed/

To the 7. that he is ingnora*n*t

To the 8. that he doth knowe/ that in the lyfe tyme of the ſaid Johne Braynes/ ther fell out great contenc*i*on & varyaunce betwene him and the ſaid James Burbage about the profitt*es* and the vnhoneſt p*ar*ciall dealing/ of the ſaid James/ co*n*cern*in*g the ſaid Theater/ But what end the ſame co*n*tenc*i*on tooke whill the ſaid Braynes lyved/ he ſaith he knoweth not/ nor more can ſaye to this J*n*t*errogatory*.

To the 9. that he is ingnora*n*t

To the 10. that he doth knowe that the ſaid James Burbage and Braynes did ioyntlie morgage ther ſaid leaſe of the Theater to one hyde A grocer of london/ but for how moch money/ or otherwyſe/ he ſaith he knoweth not/

To the 11. that he hath heard by credible report/ that the ſaid leaſe was forfetted to the ſaid Hyde/ for nonpaym^t^ of the money they borowed thervp*p*on/ both at the tyme it ſhuld haue bene payd, and long tyme after/

To the 12. that he is ingnora*n*t

To the 13. that he is ingnora*n*t

To the 14. that he ca*n* ſay nothing

To the 15. that he ca*n* ſay nothing

To the 16. that he ca*n* ſay nothing

To the 17. that he ca*n* ſay nothing

To the 18. that he can*n*ot depoſe

To the 19. that he can ſay no more then he hath before ſaid/

To the 20. that he ca*n* ſay nothing

To the 21. that he ca*n* ſay nothing

To the 22. that he can ſay nothing/ Nor more can ſay to all the foreſaid Jnterr*ogatories*/

[Signed] p*er* me John Grigg*es*

Edwarde Collyns of Bucklers berye london grocer of the age of xxxix yeres or therabout*es* ſworne and ex^{d} the Daie and yere aforeſaid &c To the firſt Jnt*errogatory*. that he dothe knowe all the p*ar*ties p^{l}/ and Defend^{tes}/ but knoweth not Gyles Allen named in this Jnterr*ogatory*/ And to the reſt of this Jnterr*ogatory* he ſaith he ca*n*not depoſe/

To the 2. that he can*n* ſay nothing

To the 3. that he can ſay nothing

To the 4. that he hath credyblie heard ſaye, and beleveth it to be very true/ that the ſaid James Burbage one of the now defend^{tes} and Jo. Braynes the comp^{ltes} late huſband deceſſed tooke A leaſſe of the grounde whervpon the playing houſſe called the Theater now ſtandeth/ & of other howſes there/ but of whome they tooke the ſame/ Or what the conten*tes yer*of is/ he ſaith he knoweth not/ And further to this Jnterr*ogatory* he ſaithe he ca*n*not depoſe/

To the 5. that this Depo^{t} being ſ*erva*unt in Bucklers berye afore-

ſaid to one Robert Kenningham grocer/ in wch Streete the ſaid Jo. Braynes Dwelled alſo/ and of the ſame Trade/ he the ſaid Braynes at the tyme he Joyned w^{t} the ſaid James Burbage in the foreſaid leaſe/ was reputed emong*es* his neyghbo^{rs} to be wo^{r}th one thowſand poundes at the leaſt/ And that after he had Joyned w^{t} the ſaid Burbage in the matter of the building of the ſaid Theater/ be began*n* to ſlack his own trade/ and gave him ſelf to the building therof/ and the chefe care therof he tooke vp*p*on him/ and hyred wo^{r}kmen of all ſort*es* for that purpoſe/ bought Tymbre and all other thing*es* longing therunto/ and paid all/ So as in this Depo^{t*es*} co*n*ſcience he beſtowed thervp*p*on for his owne p*ar*te the ſome of one thowſand m*ar*k*es* at the leaſt/ in ſomoche as his affecc*i*on was gyven ſo greatlie to the fyniſhing therof/ in hope of great welth & p*r*ofitt during ther leaſe/ that at the laſt he was dryven to ſell to this Depo^{tes} ffather his leaſe of the howſe wherin he dwelled/ for one C li/ and to this Depo^{t} all ſuche wares as he had left/ and all that longed therunto Remayni*n*g in the ſame for the ſome of one Cxlvj^{li} & od money/ wherof this Depo^{t} did paye for him to one Kymbre an Jremonger in london for Jron wo^{r}ke wch the ſaid Braynes beſtowed vp*p*on the ſame Theater/ the ſome of ffourtie poundes/ And after wardes the ſaid Braynes tooke the matter of the ſaid building ſo vpon him/ as he was dryven to borow money to ſupplye the ſame/ ſaying to this Depo^{t} that his brother Burbage was not hable to help the ſame/ and that he found not toward*es* it aboue the value of ffiftie pound*es*/ ſome p*ar*te in money/ and the reſt in ſtuff./

To the 6. that he ca*n* ſay no more/ then he hath before ſaid/ in the laſt former Jn*terrogatory*.

To the 7. that he is ingnora*n*t

To the 8. that he Reme*m*breth ther fell out variaunce & co*n*tenc*i*on betwene the ſaid James Burbage/ and as he thinketh the ſaid Braynes/ or his wyfe the now compleyna*n*t the wch variance they conſented that friendes ſhuld hear & arbytrate the ſame/

whervpon this Depo^{t} was Requeſted to say to the ſaid Arbytrato^{rs} being in the Temple Churche/ what he could ſay of the habilitie of the ſaid Braynes/ whan he & Burbage Joyned together in the foreſaid leaſe & building of the Theater/ and this Depo^{t} declared truelye vnto them/ what he could ſaye of the ſaid Braynes/ But whether the ſaid Arbytrato^{rs} made any Award betwene them/ Or yf they did/ what the ſubſtaunce therof was/ he ſaith/ he is vtterlye ingnora*nt*/ Nor more can ſay/ to this Jn*terrogatory*.

To the 9. that he ca*n* ſay nothing

To the 10. that he is ingnora*nt*

To the 11. that he is ingnora*nt*

To the 12. that he is ingnora*nt*

To the 13. that he ca*n* ſay nothing

To the 14. that he can ſay nothing

To the 15. that he can ſay nothing

To the 16. that he can ſay nothing

To the 17. that he can ſay nothing

To the 18. that he can ſay nothing

To the 19. that he is ingnora*nt*/ nor more can ſay to this Jn*terrogatory* then he hath before ſaid/

To the 20. that he can ſay nothing

To the 21. that he is ingnora*nt*

To the 22. that he can ſay nothing/ Nor further ſaith to all the fore ſaid Jnterrogatoryes/

[Signed] by me Edwarde Collyns

Robert Myles of the Pariſhe of whytechapell w^t^out Allgate london free of the companye of the goldſmythes of the age of lij yeres or theraboute*s* ſworne and ex^d^ the xxx Daye of Julye in the yere aforeſaid &c To the first Jnt*errogatory*/ that he dothe know the now comp^l^/ And all the defend^tes^ And knoweth alſo Gyles Allen gentleman named in this Jnt*errogatory*. And ſaithe that he doth knowe that the ſaid Gyles Allen was of late ſeyſed and owner emonge*s* other landes & tenem^tes^ w^t^in the p*ar*iſhe of S^t^ leonardes in Shordiche w^th^out Biſhops gate london in & about the late Diſſolued Pryorye called hallywell there/ of A parcell of voyd grounde/ and of dyvers other landes & tenem^tes^ p*ar*cell of the ſame Pryorye/

To the 2. that he doth knowe and was p*refe*nt at tymes whan the ſaid James Burbage did earneſtlie inſynuate his brother in lawe John Braynes deceſſed the now comp^ltes^ late huſband/ for the taking of A leaſe of the ſaid Gyles Allen of the ſaid pece of voyd grounde to builde the now playhouſſe called the Theater ther-vp*p*on/ earneſtlie informi*n*g him/ that it wold grow to ther co*n*-tynuall great profitt & com*m*odytie/ through the Playes that ſhuld be vſed there everye weke/ But the ſaid Braynes being of A welthie trade alredye/ and A grocer in Bucklers Burye london & Ryche was verye lothe to deale in the matter of the ſaid leaſe/ Notw^t^ſtanding in the end by the co*n*tynuall p*er*ſuaſion & meanes made vnto him by the ſaid James Burbage the ſaid Braynes Joyned w^t^ him in takeng the ſaid leaſe/ But he ſaith/ that he hath heard the ſaid Jo. Braynes many & often tymes ſaye/ that the drawing of him by his brother Burbage to deale in the matter of the ſaid Theater/ was his vtter vndoing/ and that he wold never haue entred ye*r*in but by the ſwete and co*n*tynuall p*er*ſua-ſions of his ſaid brother in law Burbage/ And for the charges that ſhuld haue bene beſtowed vp*p*on the building of the ſame

playe houſſe/ he this Depo^{t} did heare the ſaid Burbage tell the ſaid Braynes/ that it ſhuld not excede the ſome of CC^{li}/ But this Depo^{t} ſaith that after the ſaid Braynes had lade out vpon the building & Doing therof to the value (as he ſaid) of fyve hundreth poundes or therabou*tes*/ he this Depo^{t} heard the ſaid Braynes charge the ſaid James Burbage/ that where he made him beleve the building therof ſhuld not excede the charge of CC^{li}/ he the ſaid Braynes had lade out fyve hundreth poundes alredy vp*p*on the ſame/ and then this Depo^{t} heard the ſaid Burbage tell him/ it was no matter praying him to be co*n*tented/ it wold ſhortlie quyte the coſt vnto them bothe/ or wo^{r}d*es* to like effecte./

To the 3. & 4. that he hath heard the ſaid Braynes ſaye/ that his Brother Burbage was the onlye meanes/ that he entred in the taking of the ſaid leaſe/ and building of the ſaid Playe houſe/ and that yf he the ſaid Braynes wold not Joyne w^{t} him therin he himſelf ſhuld never be hable to builde it/ for it wold coſt fyve tymes ſo moche as he was wo^{r}the/ And ſaithe that the ſaid Braines told this Depo^{t}/ that he was advyſed to ſuffre the ſaid Burbage to take the ſaid leaſe in his owne name and he to convey ou*er* to him the ſaid Braynes his executo^{rs} and aſſignes the moytie or half of all the profitt*es* growing by the playes & Rent*es* there/ and Burbage to haue the other moytie / [*leaft yf the ſaid Braynes ſhuld John w^{t} him* (stricken out)]/ and herevpon the ſaid Burbage entred into CCCC^{li} bonde to the ſaid Braynes to p*er*forme the ſame as by the ſame bond may appere And this the ſayd Braynes ſayd he was advyſed to do/ leaſt yf the ſaid leaſe had come in both ther names/ the Survyvo^{r} ſhuld go away wth all/ All wch or to the ſame effecte the ſaid James Burbage hath co*n*feſſed to this Depo^{t} dyvers and ſondrye tymes to be true/

To the 5. that vpon the promys & proteſtment of the ſaid James Burbage, to the ſaid Jo. Braynes/ that he his executo^{rs} and aſſeignes ſhuld during the ſaid leaſe haue & Receyve/ the one half of the proffitt*es* that ſhuld Ryſe by the ſaid Playes there to

be vſed/ and A dyvydent or half alſo of all the Rent*es* of ſuche howſes and thinges as were graunted & were w^t^in the Compaſſe of the ſaid leaſe/ ſo the ſaid John Braynes made a g^t^ ſome of money/ of purpoſe & intent/ to go to the building of the ſaid Playe houſſe/ and thervp*p*on did provyde Tymbre/ and other ſtuffe nedefull for the building *yer*of/ and hyred Carpinters/ and plaiſterers for the ſame purpoſe and paid the wo^r^kemen co*n*tynuallye/ So as he for his part lade out of his owne purce & what vpon Credit about the ſame/ to the ſome of vj or vij^C^ li. [=6 or 700 *l.*] at the leaſt/ And in the ſame tyme ſeing the ſaid James Burbage nothing able ether of him ſelf/ or by his credit to co*n*trybute any like ſome towardes the building therof/ being then to be fyniſhed/ or ells to be loſt that had bene beſtowed vp*p*on it alredye/ the ſaid Braynes was dryven to ſell his houſe he Dwelled in/ in Bucklers bery and all his ſtock that was left/ and gyve vppe his trade yea in the end to pawne & ſell both his owne garmente*s* and his wyves & to ren [sic] in debt to many for money to fyniſhe the ſaid Playe houſſe/ & ſo to ymploye himſelf onlye vp*p*on that matter/ and all whatſoeu*er* he could make/ to his vtter vndoing/ ffor he ſaith/ that in the latter end of the fyniſhing therof/ the ſaid Braynes and his Wyfe the now comp^l^. were dryven to labo^r^ in the ſaid wo^r^kes/ for ſaving of ſome of the charge/ in place of ij° laborers/ Whereas the ſaid James Burbage went about his owne buſynes/ and at ſometymes whan he did take vp*p*on him to do ſome thing in the ſaid wo^r^ke*s*/ he wold be/ and was allowed A workmans hyre/ as other the workmen there had/

To the 6. that he hath heard the ſaid James Burbage confeſſe vp*p*on the accompte*s* and Recon*in*ge*s* had betwene him & the ſaid Braynes co*n*cern*in*g the ſaid leaſe and the matter of the buildinge of the ſaid Playehouſſe/ that all the charge wch he was at/ in the accompliſhing of the p*re*miſſes from the begynn*in*g to the end did not amount to the full value of one C^li^/ wch this Depo^t^ verylie thinketh to be true/ ffor he never knew him but A po^r^ man & but of ſmall Credit/ being by occupac*i*on/ A Joyner/ and reaping but

A ſmall lyving by the ſame/ gave it over/ and became A com*m*en Player in playes/ And further ſaith/ that he doth knowe/ that his Credit was ſuche/ as nether m*er*chant nor Artificer wold gyve him Credit for the value of x^{li} vnles his brother Braynes wold Joyne w^{t} him/ being A man well knowne in london both of his own wellth and of good credit/ And ſaith y^{t} he hath heard the ſaid Braynes by earneſt othe afferme/ that all the readye money wch his brother Burbage brought fourthe to be ymployd towardes the building of the ſaid Theater was but about [*fyftie & od poundes* (stricken out)] xxxvij^{li}/ and the reſt that made vppe about the ſome of fyftie & od pound*es* wch was in maner all that he bore towardes the ſaid charge/ was in od peces of Tymber/ wayneſcott & ſuche like thing*es* and his own labo^{r}/ wherin the ſaid Braynes told this Depo^{t}/ his brother Burbage made him to allow him/ in ſome thing*es* the value of vj^{d} for A grote/ So as this Depo^{t} knowethe y^{t} the whole building of the p*re*miſſes in effecte and the taking of the ſaid leaſe/ was done at the onlye charge of the ſaid Braynes by his own goodes/ & credit/

To the 7. that whan the ſaid Playe houſſe was fyniſhed/ and playes p*er*formed in the ſame/ and great ſomes of money gathered & had of the repairers therunto the ſaid Braynes told this Depo^{t} that his brother Burbage/ co*n*trarye to his faith and promes that the ſaid Braynes ſhuld haue p*ar*te & p*ar*telyke of the ſame/ did by the ſpace of about ij° yeres/ purloyne & filche therof to him ſelf moch of the ſame money/ by A ſecret key wch he cauſed one Braye A Smyth in Shordiche to make for him of the Com*m*en box where the money gathered at the ſaid Playes was by both ther conſent*es* putt in/ by meanes wherof he did not onlye playe falce w^{t} him the ſaid Braynes to A great value as it was thoght but alſo Diſceyve his fellowes the Players/ And many tymes wold thruſt ſome of the money Devident betwene him & his ſaid ffellowes/ in his boſome or other where about his bodye/ Diſceyving his fellowes of ther due Devydent/ wch was equally to haue bene devyded betwene them/ All wch this Depo^{t} dothe verelie beleve to be true/ ffor that he hath heard the ſaid James Burbage vp*p*on

fynding of the ſame falce key/ confeſſe ſo moch in effecte to the ſaid Braynes/ praying him to forgyve him/ and he wold yf he lyeved make him Recompence/ ſaying it was the Devill that led him ſo to do/ And further to this Jnterrogatory he ſaith not/

To the 8. that he hath bene privie and prefent at & of dyvers variances & contencions betwene the ſaid Jo. Braynes & James Burbage for & concerning the matters & profittes of the ſaid Theater/ and that they did ſubmitte them ſelfes therin to the Award & Arbytryment of one Ry. Turnor/ and Jo. Hille/ men of great honeſtye & credit/ to make a fynall end of all matters in queſtion betwene them, who vppon great diſcreſſion and indifferiencye betwene them bothe/ having throughlye heard ther grefes/ and Demaundes did Arbitrate & Award in wryting Jndented betwene them readie to be ſene that from thenſforthe the ſaid Jo. Braynes his executors & aſſignes ſhuld haue/ receyve & enioye to them & ther owne vſes/ during the ſaid leaſe/ the one half or moytie of the profittes/ that ſhuld grow & ryſe by the playes to be vſed ther/ and alſo of the Rentes ffynes & other yerelie profittes of ſuche other tenemtes & places there/ as ſhuld yerelie grow due for the ſame/ and the ſaid James Burbage his executors and aſſignes to haue alſo the other moytie of the premiſſes During the ſaid leaſe in lyke maner/

To the 9. that he doth knowe that the ſaid Arbitrators did alſo Award betwene them/ That yf occaſion ſhuld move them the ſaid James Burbage and Jo. Braynes to morgage the ſaid leaſe vppon the Borowing of any ſome of money to paye Debtes/ concerning the ſaid Theater/ that then they both ſhuld Joyne in the ſame morgage/ and that money coming of the proffittes of the ſaid Playes & the other ſaid Rentes and ffynes/ to go to the Redempcion of the ſaid leaſe/ as by the ſaid Award may appere/

To the 10. that he doth knowe/ and ſo is it confeſſed by depoſicions in the Chauncerye/ that the ſaid James Burbage and Jo. Braynes did according to the ſaid Arbitryment/ having ſpeciall

nede/ morgage ther ſaid leaſe/ and the dymyſed p*re*miſſes therin to one Jo. hyde grocer of london/ for the ſome (as he Reme*m*breth) of one Cxxv^{li} or therabout*es* payable at A certen Daye/

To the 11. that he doth knowe/ that the ſaid Cxxv^{li} was not payd to the ſaid Jo. hyde at his Daye/ nor long after/

To the 12. that he doth knowe that ther was payd to the ſayd Jo. hyde/ in the lyfetyme of the ſaid Jo. Braynes/ as the ſaid hyde did confeſſe to the now comp^{l}. all the ſaid Cth and xxv^{li} ſaving the ſome of xxx^{li} or therabout*es*/ But whether it was payd before the ſaid leaſe was forfeitted or no he ſaith he ca*n*not depoſe/ Nor whan or how the ſaid xxx^{li} was payd/ after the deceſſe of the ſaid Jo Braynes/

To the 13. that he did heare the ſaid Jo. Braynes ſaye before his deceſſe many & often tymes/ that the ſaid Johne hyde did faithfullye promes vnto him that yf he were payd his principall debt/ and ſome reaſonable conſideraci*o*n for the tyme he did forbeare the ſame/ he wold never take the advauntage of the forfetture of the leaſe/ And ſyns the death of the ſaid Jo. Braynes, he this depo^{t} did dyvers tymes heare the ſame Jo. hyde ſaye to the now comp^{l} that he wold never take any forfetture of the ſaid leaſe yf he might haue his money that was due behinde/ and any reaſonable conſideraci*o*n for the forbearing therof/

To the 14. that he did heare the ſaid Jo. hyde ſaye and promes to the now comp^{l}/ that yf he were payd his money/ w^{t} ſome indyfferent conſideraci*o*n for the forbearing therof/ that he wold reaſſure the p*re*miſſes to the ſaid comp^{l} and to the ſaid James Burbage/ in reſpecte it was morgaged vnto him/ by both the compl^{tes} huſband and the ſaid Burbage/ ſaying that he verylie tooke it/ that by the death of the compl^{tes} huſband/ his right & inte*re*ſt of & in the ſame/ did belong to the ſame comp^{l}/

To the 15. that he doth verie well Reme*m*ber/ that on a tyme after

the deceſſe of the ſaid Braynes/ his wyfe the now comp[l] went to the ſaid Jo. hyde and this Depo[t] & others in her companye/ and offered him/ to paye him the money that was behynde vnpayd/ w[ch] by his owne confeſſion was but xxx[li]/ yf he wold convey over vnto her the ſaid leaſſe/ and that yf he wold ſo do/ ſhe wold be bounde to aſſure the ſaid James Burbage of the moytie of all the *proffitte*s and Rente*s* therof/ ſaying in verye dede/ Although the ſaid Burbage wold & ſoght to defeat her of her right therin/ yet wold not ſhe ſo deale w[t] him/ and then the ſaid hyde made her anſ[r]/ ſaying Whan I am payd my money/ then will I make it ou*er* to yo[u] & burbage as yo[r] huſband & Burbage made it to me/ or ſpeche to the ſame effecte/

To the 16. that he doth knowe that after the death of the ſaid Jo. Braynes/ the ſaid James Burbage did deteyne in his own handes/ the proffitte*s* and Rente*s* of the ſaid p*re*miſſes/ of purpoſe (as it was thought) that the ſaid leaſe ſhuld fall forfetted to the ſaid hyde/ & ſo that he might take it over of the ſaid hyde in his own name/ or in the name of ſome other to his vſe/ as it trulie fell out after/ And ſaith that after the death of the ſaid Braynes the ſaid James Burbage/ did vtterlye denye the comp[l] to take or Receave any more of the proffitte*s* or Rente*s* of the ſaid p*re*miſſes co*n*trarye to the expreſſe meani*n*g & Wordes of the foreſaid Awarde & Arbitryment/ Wherby the ſaid Jo Hyde was not payd his money according to the ſaid Arbitryment/ w[t] the Rente*s* and profitte*s* of the p*re*miſſes/ as it ought to haue bene by the ſaid Arbitryment/

To the 17 that true it is the ſaid James Burbage (as the ſaid Jo hyde told this Depo[t]) Did ſo labo[r] him/ what by the ſaid Burbage wyfe/ and ſpe*c*iallye by le*tt*res from one M[r] Cope one of the lord Treaſorers gentlemen/ that he ſhuld make ou*er* his inte*re*ſt & claime of & in the ſaid leaſe/ to Cuthbert Burbage the ſone of the ſaid James Burbage/ the other now Defend[t]/ [*to the vſe of him the ſame James Burbage* (stricken out)]/ vp*p*on the payment of the ſaid xxx[li] & ſome further conſideraci*o*n/ meani*n*g as this

Depo^{t} thinketh in his conſcience/ to Defeat the comp^{lt} of her right in the p*re*miſſes/ And then the ſaid hyde anſred/ this Depo^{t} that he graunted the rather therunto for that bothe the ſaid James Burbage & his ſaid ſone Did faithfullie p*ro*mes him/ that the ſaid comp^{l} ſhuld haue her co*n*tynuall moytie of the proffitt*es* and Rent*es* of the p*re*miſſes/ wch they faithfullie promiſed vnto him (as he ſaid) ſo to do/ During the tyme of the ſaid leaſe/ the w^{ch} (as he ſaid) he wold not haue done yf he had known they wold not haue lett her quyetlie haue the ſame/

To the 18. that he doth well Remember/ that the ſaid James Burbage after the death of the ſaid Braines & before the Redempc*i*on of the ſaid leaſe did for a tyme ſuffer the comp^{l} to take ſome of the profitt*es* of the ſaid Playes/ ſo long as ſhe was hable to laye out money/ to the neceſſary vſe of the ſaid Playe houſſe/ to the ſome of xxx^{li} or theraboute*s* as ſhe reported/ And no longer/ Whervp*p*on this Depo^{t} on the comp^{ltes} behalf both before & ſins the Redempc*i*on of the ſame charged them w^{t} the ſame/ and the ſaid James made him anſ^{r}/ that ſhe ſhuld haue her moytie according to the ſaid Award/ whan all ther Debt*es* were payd/ and that ſhe ſhuld ſuſteyne no wrong ether at the hand*es* of him/ or of his ſone/ And likewyſe this Depo^{t} meeting w^{t} the ſayde Cuthbert dyvers tymes & falling into ſpeche w^{t} him of the ſaid comp^{ltes} wrong myniſtred vnto her by his ffather & him in that they w^{t}held her right from her of the Theater/ he anſwered/ that for his own part he was very well co*n*tented that the comp^{l} ſhuld haue her part of the ſaid Profitt*es*/ yf his father wold agree to it/ being ſorye that ever he did entre into that acc*i*on/ ffor that he had both loſt his tyme/ and trobled his M^{r} in the ſame/ Whereas ſome other Sute vnto his M^{r}/ would haue bene more profitable vnto him as had bene to ſome of his fellowes that had not ſe*r*ued his M^{r} ſo long as he had and wiſhed he had never Delt in it/

To the 19. that he dothe verelie thinke in his conſcience that the ſaid James Burbage/ and his ſaid ſone/ and ther aſſignes ſyns the laſt Accompt or Recon*i*ng had & made betwene him the ſaid James and the ſaid Jo. Braynes for the proffitt*es* & Rent*es* of the Theater

& the howſes & tenem^{tes} there/ wch was about viij or ix yeres paſt/ to his Remembrance/ haue Receyved of Rentes and proffittes growing therby to the value of two thowſand markes at the leaſt for his owne parte/ And ſo moche ſhuld the ſaid Braynes/ and the now comp^{l} haue had for ther partes of the ſaid proffittes and Rentes/ yf they had had right/ Beſydes the moytie of CCxxxix^{li} wch the ſaid James Burbage was to paye to the ſaid Braynes as to one of the Credito^{rs} of money lent out & lade fourth by him vppon the premiſſes/ and wch the ſaid James Burbage gave his word & promes to paye him/ together w^{t} intereſt for the ſame/ ſo long as it ſhuld be vnpayd/ of the wch money this Depo^{t} heard the ſaid Braynes ſaye A litle before his deceſſe/ that he had not receyved one penye/ And ſhewed to this Depo^{t} alſo/ A bill of xvj^{li} debt of the ſaid James Burbage wch he was neuer payd alſo And beſydes the moytie of the value of certen tymber lead/ Brick/ Tyle/ lyme & ſand/ left of the building of the ſaid Theater/ wo^{r}the (as the ſaid comp^{l} affirmethe) an hundreth poundes or an hundreth markes at the leaſt/ And further to this Jnterrogatory he cannot depoſe/ then he hath before Depoſed & ſayd/

To the 20. that he doth knowe and was preſent whan the Ordre mencioned in this Jnterrogatory was made in the Co^{r}t of Chauncerye/ betwene the ſaid comp^{l}/ and the now defend^{tes} in the favo^{r} of the ſame defend^{tes}/ Albeit the ſaid def^{tes} did in g^{t} contempt Diſobey/ and w^{t} heynous preſumptyous wordes/ neclecte & ſett the ſaid Ordre at nought/ and the Arbytryment before mencioned allowed & confirmed by the ſame/ in all Reſpectes and poyntes/

To the 21. that he can ſay no more in effecte/ then he hath laſt before ſaid to the laſt former Jnterrogatory/.

To the 22. that he referreth him ſelf to certen Depoſicions of Witneſſes taken in this co^{r}te of late/ concerning the manifeſt and ſcarce tollerable contempt of the Def^{tes} & other of ther company/ againſt the ſaid Ordre/ and the ſaid Arbitrym^{t}/ All wch Duelye

and charitablye being conſidered/ he this Depo^{t} Doth verylie think in his conſcience/ that the now comp^{l} is by this Sute vtterlye vndone/ and Dyvers of her ffrendes hyndered that haue Relieved her to the value of ffyve hundreth m*arkes*/ at the leaſt/ And more to the foreſaid J*nterrogatories* he ſaith not/

[Signed] By me Robart Miles

Henry Laneman of london gentlem*an* of the age of liiij yeres or therabout*es* ſworne and ex^{d} the daie and yere aforeſaid &c To the firſt J*nterrogatory* that he doth knowe all the p*ar*ties of the named comp^{l} and defend^{t*es*}/ And to the reſt of this J*nterrogatory* he ſaith he c*a*nnot depoſe/

To the 2. that he can ſay nothing

To the 3. that he can ſay nothing

To the 4. that he can ſay nothing

To the 5. that he cannot depoſe/ onlye he did heare/ that the building of the Theater at hallywell coſt A thowſand m*arkes*/ but who did beſtowe the charge y*er*of he knoweth not/

To the 6. that he ca*n* ſay no more/ but that the comen ſpeche went/ whan the ſaid Theater was in building that it was Braynes money & Credit that builded the ſame/ and that James Burbage was at y^{t} tyme verye vnhable to Joyne therin/

To the 7. that he can ſay nothing

To the 8. that he did heare of ſome co*n*tencio*n* & variance that fell out betwene the ſaid James Burbage/ and the ſaid Jo. Braynes after the fyniſhing of the ſaid Theater and after that plaies were p*er*formed therin/ And that the ſaid Contencion & variance was by ther conſent*es* put to the Arbitryment of certen p*er*ſones/ and that the ſaid p*er*ſones did make an Awarde betwene them/ wher-

unto he doth referre him ſelf for the troth of the ſame/

To the 9. that he Doth ſtill referre him ſelf to the ſaid Awarde/

To the 10. that he is ingnor*a*nt

To the 11. that he is ingnor*a*nt

To the 12. that he is ingnor*a*nt

To the 13. that he is ingnor*a*nt

To the 14. that he is ingnor*a*nt

To the 15. that he ca*n* ſay nothing

To the 16. that true it is/ about vij yeres now ſhalbe this next Wynter/ they the ſaid Burbage & Braynes having the p*ro*fitt*es* of Playes made at the Theater/ and this Depo^{t} having the profitt*es* of the playes Done at the houſſe called the Curten/ nere to the ſame/ the ſaid Burbage and Braynes taking the Curten as an Eſore to their playe houſſe/ did of ther own mo*c*ion move this Depo^{t} that he wold agree that the proffitt*es* of the ſaid ij° Playe howſes might for vij yeres ſpace be in Dyvydent betwene them/ Wherunto this Depo^{t} vpon reoſonable condic*i*ons & bondes agreed & conſented and ſo co*n*tynueth to this Daie/ And ſaith that at the firſt moc*i*on of this agreem^{t} the ſaid Braynes had his porc*i*on duelye anſ*w*ered him of the ſaid profitt*es*/ and vntill he dyed/ But after his deceſſe the ſaid Burbage began to abridge his wyfe the nowe comp^{l} of that her huſband had of the p*re*miſſes/ and ſhortlie after put her from all/ to the wch vpon ſome myſlike had by this Depo^{t} of the vnkynde dealing of the ſaid Burbage, w^{t} the ſaid Braynes wyfe, he this Depo^{t} told him many tymes that he did her wrong/ telling him that the comen fame went that it was braynes that was at the chefe charge of the building of the ſaid

Theater/ And otherwyſe or more to this Jnt*errogatory* he ſaith he cannot depoſe

To the 17. that he can ſay nothing

To the 18. that he can ſay nothing

To the 19. that he doth verelie thinke that the ſaid James Burbage ſyns the Death of the ſaid Braynes who to this Depo^{tes} Remembraunce Dyed w^{t}in the firſt yere of ther compoſicion and agreem^{t} w^{t} this depo^{t} hath receyved & had for his parte of the proffitt*es* of the ſaid ij° playe howſes/ one yere w^{t} another to this daye/ the ſome of one hundreth m*arkes* or fourſcore poundes by the yere/ And this is all that he can ſaye to this Jnt*errogatory*/

To the reſt of the Jnterr*ogatories* he ſaith he ca*n*not depoſe/ Nor more ſaith in this matter/

[Signed] Henry lanman

William Nicoll of london Notary publiq aged xliiij yeres or thereabout*es* ſworne & exa*min*ed the laſt daye of Julye in the yere aforeſaid &c.

To this firſt Jnterogatory that he doth knowe the ſaid Margaret Brayne the Compl*ainant* and James Burbage one of the defend^{tes} and hath knowen them by the ſpace of xv^{en} or xvj yeres paſt but he doth nott (to his now remembraunce) knowe the ſaid Cutbert Burbage or the ſaid Giles Allyn named in the ſaid Jnterogatory/

To the 2. 3. 4. & 5. Jnterogatories this Deponent ſaieth that about fiftene yeres paſt the ſaid James Burbage and one John Brayn Deceaſed late huſband of the ſaid Complayn*a*nt came to this Deponent to his then ſhop in the p*ar*iſhe of S^{t} olave in thold Jury in london and required to have a leaſe & Coven*a*ntes drawen betwene them of the moytie of certen howſes or Ten*ement*es barne ſtable Theatre gardeins and other premiſſes wch the ſaid James Burbage then held by leaſe of one Giles Allyn of Hal-

lowell in the Countie of midd*leſex* gent and Sara his wief ſet and being (as this deponent taketh it) at Hollowell nere vnto ffynneſberry feild*cs* in the Countie of midd*leſex* then ſhewing vnto this deponent as he now remembreth the Copy of the ſaid leaſe at wch tyme the ſaid James Burbage and John Brayne did declare to this deponent that though the leaſe was taken in the name only of the ſaid James Burbage/ yet it was ment to be for both their vſes and therfore he the ſaid James Burbage was willing to aſſure the one moytie of the premiſſes to the ſaid John Brayne/ Whervpon this deponent did drawe and engroſſe an Jndenture of leaſe betwene them dated the ixth daie of Auguſt in the xixth yere of the raigne of o^{r} moſt gratious ſoveraigne lady that now is, to the effecte of their then agreament*es*./ W^{ch} leaſe ſo engroſſed this Deponent thinketh (to his now remembraunce) was not ſealed by the ſaid James Burbage/ for that the originall leaſe made to him by the ſaid Giles Allyn and Sara his wief was then at pawne for money wch was borowed for the building of the ſaid Theatre/ And therefore the ſaid John Brayne afterward*es* about the xxijth of may in the Twentith yere of the raigne of o^{r} ſaid ſou*er*aigne Lady did require this deponent to drawe an obligation wherein the ſaid James Burbage ſhould be bound to the ſaid John Braynes in foure hundreth pound*es* for the making vnto the ſaid John Brayne his executo^{rs} adm*ini*ſtrato^{rs} or aſſignes a good and lawfull leaſe graunt and other aſſuraunce of the moitie or one Jujt half of all and ſing*u*ler the ſaid Theatre and other the p*re*miſſes graunted to the ſaid James Burbage by the ſaid originall leaſe and of all the benefit of the Coven*a*nt*es* graunt*es* and agreement*es* compriſed in the ſaid leaſe wch bond or obligac*i*on this deponent made and engroſſed according to the agreament betwene the ſaid p*ar*ties./. and afterward*es* the ſaid James Burbage did ſeale and delyver as his dede the ſaid obligac*i*on to the ſaid John Brayne in the preſence of this deponent and one John Gardyner as by the ſaid obligation and teſte thereof wher-vnto he this deponent referreth him ſelf (being ſhewed vnto him at this his exa*mina*c*i*on doth appere/ And further this deponent ſaieth that ſhortlie after the ſealing of the ſaid bond there grew

ſome Contenc*i*on betwene the ſaid James Burbage and John Brayne towching the yndifferent dealing and collecting of the money for the gallories in the ſaid Theatre for that he well remembreth the ſaid John Brayne did thinck him ſelf much agreyved by the indyrect dealing of the ſaid James Burbage therein/ and coming then both together in the ſhop of this deponent about bond*es* of arbitrament wch this deponent thincketh he made betwene them to abide the order & arbitrament of one Richard Turner and John hill/ they the ſame James Burbage and John Brayne fell a reaſoning together of the yll dealing of the ſaid James Burbage./. at wch tyme this deponent was preſent and doth well remember that the ſaid John Brayne did declare theis word*es* or the like in effect how he had left his trade and ſold his howſe by the meanes of the ſaid James Burbage to Joyne with him in the building of the ſaid Theatre and that he had diſburſed a great deale more money about the ſame then the ſaid James Burbage had/ and there repeated what he had laied out and what the ſaid Burbage had laied out (the certen ſom*m*es the deponent doth not now certenly remember) but he thincketh that the ſom*m*e then diſburſed by the ſaid John Brayne was three tymes at the leaſt as muche more as the ſom*m*e then diſburſed by the ſaid James Burbage, and in the end declared ſo many word*es* of the ill dealing of the ſaid Burbage toward*es* him in that dealing of the Theatre/ that Burbage did there ſtrike him wth his fiſt and ſo they went together by the eares Jn ſomuch that this deponent could herdly p*ar*t them/ And further this deponent ſaieth that afterward*es* the xijth daie of July in the ſaid Twentith yere of the raigne of o^{r} ſaid ſou*er*aigne Lady the ſaid Richard Turner and John Hill did make enſeale and geve vp their award betwene the ſaid James Burbage and John Brayne in the preſence of this deponent and George Goſſe then his apprentice as by the ſaid award Jndented and the Teſte therof wch was ſhewed to this deponent at this his examynac*i*on doth appere/ and more to the ſaid Jnterogatories to his now remembrance he cannot depoſe/. To the vjth Jnterogatory this deponent thincketh that the ſaid James Burbage at the tyme of the taking of the ſaid leaſe of

m^r^ Allyn and his wief was not able to beſtowe for his p*ar*te of his owen money w^th^out Credit) the ſom*m*e of one hundred pound*es* towards the building of the ſaid Theatre for that this deponent thincketh that he the ſaid Burbage was not then worth a hundred pound*es* and as towching his credyt he thincketh it was but ſmale/ and more he cannot depoſe/

And to all the reſt of the ſaid Jnterogatories this deponent ſaieth he cannot depoſe otherwiſe then he hath alredy depoſed/

[Signed] p*er* me Will*ia*m Nicoll

WILL OF MARGARET BRAYNE

Commissary Court of London, Register 1592–97, p. 26.

[The will of John Brayne, an old one, dated 1 July, 1578, and proved 10 August, 1586, just after his death, is also registered in this court, in the register for 1585–92, p. 29. But as he had disposed of most of his property by deeds of gift, and the will makes no mention of theatrical interests, no further notice need be taken of it. The widow, of course, claimed the moiety of the Theatre as executrix.]

In the name of God Amen the eight daye of Aprill Anno 1593 in the xxxv^th^ yeere of the Reigne of our ſou*er*eigne Lady Elizabeth by the grace of god Quene of Englande ffrance and Irelande defendor of the faith &c I Margaret Braine of the p*ar*iſhe of St Mary Matfellon al*ia*s whitechapell in the Countie of Midd*lesex* widdow beinge wholl in mynde ſyck of body but of a p*er*fect memory and remembraunce laude and prayſe be given to allmightie god therefore doe make and ordeine this my preſent writinge conteyninge herein my laſt will and Teſtament in manner and forme followinge that is to ſaye ffirſt and principally and aboue all thing*es* I comende my ſoule to allmightie god my maker and to Jeſus Chriſt his ſonne my ſavio^r^ and redemer truſting in and by his merit*tes* and precious blood ſheddinge to be ſaved and to atteine liefe eu*er*laſtinge And as concerninge the diſpoſic*i*on of all and ſingular ſuch my good*es* Chattles ymplement*es* and houſhold ſtuff and other good*es* whatſoeu*er* movable and vnmov-

able which I am now inveſted or wch to me is or ſhalbe by any manner of wayes or meanes howſoeu*er* app*ur*teyninge or belonging I freely and wholy geve and bequeth the ſame in manner and forme followinge That is to ſaye Item I geue and bequeth vnto Robart Miles Cittizen and goldſmith of London in conſideracion that I am greatly indebted vnto him in ſuch greate ſome and ſomes of money that all the good*es* I haue in the wholl worlde will nothinge countervaile the ſame all ſuch intereſt right propertie claime and demande whatſoeu*er* which I the ſaide Margaret Brayne haue ſhould or ought to haue of in or to the one moytie or halfe p*ar*te of the playhouſe comonly called the Theater Nere Holliwell in the Countie of Middleſex And alſo my mynde and will is that the ſaide Robart Miles ſhall haue all the benefite proffitt and comoditie thereof any ſaige [sic] comynge or growinge or wch by any meanes may diſcende or come by vertue of the ſaide moytie or half p*ar*te of the Theater to me in Right belonginge as aforeſaide Item I geue and bequeth vnto the ſaide Robart Miles all and all manner of band*es* bills ſpecialties debt*es* fom*m*e and ſomes of money whatſoeuer as I now haue or wch by vertue of any ſuch band*es* or ſpecialties may be gotten wonne or obteyned or which now and here after ſhall growe dewe and payable And laſtly I geue and bequeth vnto the ſaid Robart Myles all and ſingular my good*es* Chattalls houſhold ſtuff and other of my good*es* whatſoeuer Item my will is in conſideracion p*ar*tly of the premiſſes that the ſaide Robart Miles ſhall keepe educate and bringe vp Katherine Braine my huſband*es* daughter of whome I hope he wilbe good and haue an honeſt care for her preferment And I make and ordeine the ſaide Robart Miles ſole Executor of this my ſaide Teſtament and laſt will It witnes whereof I the ſaide Margaret Braine haue herevnto ſett my hande and ſeale the daye and yeres firſt aboue written ſignu*m* dic*te* Margarete Brayne Sigillat*um* et deliberat*um* in preſencia Georgij Harriſon ſcr Nicholas Biſhop John Patteſon witneſſes Burbary Biſhop and Elizabeth Hunt/

[Proved May 3, 1593.]

MYLES *v.* BURBAGE

Chancery Decrees and Orders, vol. 1593 "B," 785. Hilary, 36 Elizabeth (1593–4).

xj° die ffebruarij [1593–4]

Robte Myles p^lt^
James Burbage
Cutbert Burbage
and others def^tes^

} fforaſmuch as this Cowrte was the p*re*ſent dayYnformed by Mr Scott beinge of the p^ltes^ councell That the Matter wherein Margarett Brayne was latelye p^lt^ againſt the aboue named def^tes^ ſtandinge heretofore Referred vnto Mr Dr Stanhop and Mr Dr Legg two of the M^rs^ of the Cowrte and they beinge redye to make theyr Report the ſayd Margarett then p^lt^ dyed. ſynce wch tyme the ſaid Robte Myles hath exhibited A bill and S*er*ved proces vpon the def^tes^ to Anſwere the ſame to revyue the ſaid form^r^ ſuyte and the orders of Referment made theirevpon in the ſame ſtate yt ſtood at the tyme of the form*er* p^ltes^ deathe It ys therefore ordered that the ſayd M^rs^ of this Cowrte ſhall att the nowe p^ltes^ ſuyte take the lyke conſyderac*i*on as they were to doe of the Matters to them before referred at the form*er* p^ltes^ ſuyte and make ſuche Report thereof as by the form*er* orders made in that behalf they were appoynted to doe That ſuch further order may be taken therevpon as to this Cowrte ſhalbe thought meete/

BURBAGE *v.* MYLES

Chancery Decrees and Orders, vol. 1594 "A," 857; also in 1594 "B," 862. Hilary, 37 Elizabeth (1594–5).

xiiij die Marcij [1594–5]

James Burbage p^l^
Robte Miles defendt

} fforaſmuche as the Right honorable Sr John Puckeringe knight Lorde keep*er* of the greate Seale of England was this p*re*ſent daye informed on the p^les^ behalf by M^r^

Borne beinge of his Councell that the ſaid p*ar*ties haue croſſe billes the one againſt the other and that witneſſes in the ſaid ſeverall cawſes are examined and publicac*i*on at one tyme by conſente of the ſaid p*ar*ties was longe ſynce had And that the cawſe wherein the ſaid Burbage ys p^l^ for the moſt p*ar*te Concernethe the other And that the cawſe wherein the ſaid Miles is p^l^ ys appointed to be heard at the Rolles Chappel on Monday the xxiij day of May next It was therefore moſt humbly deſired by the ſaid Mr Borne ffor that the matter wherein the ſaid Burbage is p^l^ againſt the ſaid Miles was firſt comenced and is alſo Reddy for the hearinge as aforeſaide might be alſo heard together wth the other cawſe wherein the ſaid Miles is p^l^ on the xxviij^th^ day of May next at the ſaid Chappell of the Rolles It is ordered by his Lo: that if the ſaid Miles ſhall not by the ſecond Retorne of the next terme ſhowe vnto this Courte good cawſe to the contrarye then the ſaid cawſe wherein the ſaid James Burbage is p^l^ is ſet downe to be heard on the ſaid xxviij^th^ day of May w^th^out further mocion to be made in that behalfe And the ſaid Miles or his Attorney ys to be warned hereof/

MYLES *v.* BURBAGE

Chancery Decrees and Orders, vol. 1595 "A," 130; also in 1595 "B," 140. Easter, 37 Elizabeth (1595).

xxviij die Maij [1595]

Robte Miles p^l^ / James Burbage and Cutberte Burbage defend^tes^ } The matter in queſtion betweene the ſaide p*ar*ties towchinge the moytie of the leaſe of the Theator in the bill mencioned and the proffit*es* thereof Comynge this p*re*ſent day to be heard in the p*re*ſence of the Councell learned on bothe p*ar*tes It was alledged by the defend^tes^ Councell that the ſaid p^l^ had not only a bonde of 400^li^ made vnto him by the def^tes^ for the Aſſigninge over of the ſame moytie vnto him wherevpon a demurrer ys nowe joyned at

the comon lawe, but alſo an other bonde of 200li made for the performance of an Arbytrament made betwene the ſaid parties wch the ſaid pl pretendeth to be alſo forfyted by the deft And therefore as the ſaid Councell alledged the pl hathe no neade of the Ayde of this Courte for the ſaid leaſe and profittes It ys therevpon thought fitt and ſoe ordered by this Courte that the ſaid pl ſhall proceede at the comon lawe againſt the ſaid defendt vpon the ſaid bondes To thend yt may be ſeene whether the pl can Relive him ſelfe vpon the ſaid bondes or not But if yt fall out that the pl canot be Relived vpon the ſaide bondes Then the matter ſhall Receave a ſpedy heringe in this Corte And ſuche order ſhalbe geven therevpon As the equity of the cavſe ſhall Require And in the meane tyme the mattr ys Reynd[=Reteyned] in this courte

[End of the case in Chancery. This final order, with modern spelling and wrong date of 1596 for 1595, was printed first by J. P. Collier, *Actors* (*n. s.*), p. 10.

Myles was unable to get relief at the Common Law. The secret of the matter is that the case of Widow Brayne and Myles had no foundation in either law or equity, and that it was prosecuted solely by Myles's money from the first, out of malicious enmity by her and him toward the Burbages. Failing in both the Chancery and the Common Law, Myles again took up the case, after the death of James Burbage in 1597, this time in the Court of Requests, as shown in the next document, to harass his widow and his sons Cuthbert and Richard Burbage.

It would have been remarkable if Shakespeare had not fused some of Myles's traits into immortal features, particularly his Shylock-like insistence on the pound of flesh. Such annoyances to the close business associates of the great dramatist, hindering the success of the company, can hardly have failed to leave a residuum of human experience plastic to the hand of the poet.]

MYLES *v.* BURBAGE AND ALLEN

Court of Requests Proceedings, Uncalendared, Bdl. 306.

BILL

[Bill only. No answer has ever been attached to it. Filing entry, regularly placed on back of bill, wanting. Undated; but internal evidence shows the bill was drawn early in 1597, shortly after the death of James Burbage, which fell in February. The first court-order on it is dated May 9, 1597. The suit is an attack on the Burbage estate. Having failed in his previous long litigation, Miles as executor of the late Margaret Brayne, now claims a moiety of the Theatre and 600 *l.* as due to him. Giles Allen is cunningly made co-defendant with the Burbages. It is evident on the face of it that the case could not stand in either law or equity.]

To the Quenes Moſte excellent Matie
in her highnes courte of Requeſte

Humblye complaynyng ſheweth vnto your Moſte excellent ma^{tie} your ma^{tes} moſte faithfull ſubiect Robert Myles of London Gouldſmythe executo^{r} of the laſt will and teſtament of Margerette Braynes Deceaſed executrixe of the laſt will and teſtament of John Braynes her huſband allſo Deceaſed That wheras one Gyles Allen gent and Sara his wief did for a ffyne of twentye pownd*es* wherof one haulf was paid by the ſaid John Braynes and the other by one James Burbage Deceaſed by their Deede Jndented Demyſed and leaſed to the ſaid James Burbage in the eighteenth yeare of the Quenes Ma^{tes} reigne Dyvers meſſuadg*es* and tennement*es* and vacant peeces of grounde in Hallowell in the countye of Myddleſexe for the terme of twenty and one yeares rendring the yearly rent of fowrtene pownd*es* in which Demyſe or leaſe the ſaid James did covenaunte to beſtowe two hundreth pownd*es* in buyldinge*s* in and vppon the Demyſed premyſſes Jn conſyderacyon wherof the ſaid Gyles and Sara did covenaunte to and with the ſaid James and his aſſignes that hee the ſaid Gyles and Sara and their heyres and aſſignes within tenn yeares followyng the begynyng of the ſaid

demyſe would make a New Demyſe or leaſe of the premyſſes to the ſaid James or his aſſignes for one and twenty yeares to begynne att the makyng of the ſaid demyſe rendring the lyke rent as aforeſaid and vppon the lyke covenaunt*es* as the former demyſe was made except as in the ſaid covenaunt*es* is excepted for Makyng of which ſaid leaſe the ſaid Gyles allſo became bounde to the ſaid James in a ſome of money vnknowne to the ſaid Robert and allſo the ſaid Gyles and Sara did further covenaunte to and with the ſaid James and his aſſignes that att any tyme before the end of the firſt leaſe aforeſaid the ſaid James and his aſſignes mighte haue taken Downe and carryed awaye all ſuch buyldinge*s* as ſhould be buylded by the ſaid James and his aſſignes in a gardyne and void grownd demyſed by the ſaid former leaſe excepte ſuch buyldyngs as ſhould bee buylt by the expenſe of the ſaid two hundreth pownd*es* And wheras allſo the ſaid James beyng not able to buyld accordinge to the agrement made and to his Deſire vppon the Demyſed premyſes dyd both before and after the ſaid firſt Demyſe and leaſe ſoe taken agree and promyſe to and with the ſaid John Braynes that the ſaid John and his executo^{rs} ſhould haue the bennefytte and profytt*es* both of the firſt demyſe and lykewyſe of the ſecond demyſe which was to bee made and allſo of the covenaunte and covenaunt*es* aforeſaid and of all other covenaunt*es* and bond*es* by the ſaid Gyles and Sara or any of them for or conſernyng the p*re*myſſes to the yntent and in conſyderacyon that the ſaid John ſhould dyſburſe a moytye both of the ſaid two hundreth pownd*es* and of all other chardges which ſhould aryſe and growe in buyldyngs or otherwyſe concernyng the p*re*myſſes nowe ſoe yt ys and yt maie pleaſe your moſte excellent ma^{tie} that ſince the firſt Demyſe and agrement as aforeſaid the ſaid John Braynes dyd ioyne with the ſaid James in the buyldyng aforeſaid and dyd expend thervppon greater ſomes then the ſaid James that ys to ſaie att leaſt fyue or ſixe hundreth pownd*es* after which tyme the ſaid John Did for a tyme perceyue & take proffytt*es* of the moytye of the ſaid demyſed premyſſes by the aſſent of the ſaid James as alſo by an arbitrame*n*t betwene them made by Richard

Turnar & John Hill vntill the ſaid James did morgage the ſaid leaſe vnto one John Hide for a hundreth twentye fyue pownd*es* or therabout*es* and did forfeyte the ſaid leaſe vnto the ſaid John Hide for non payment of thirty pownd*es* only all the which Money thirty pownd*es* excepted was paid by the ſaid John Braynes vnto the ſaid John Hide who allwayes made faithfull promyſe that vppon the paiem^{t} of the ſaid thirty powndes and ſome conſyderacyon beſide for the forbearyng of the money hee would aſſure the leaſe back agayne vnto the ſaid John Braynes and the ſaid James Burbage and theyr aſſignes all the which hee was Moved vnto by the reaſon that hee the ſaid John Hide dyd know of the ſaid agrement and ioynt expenſes and p*er*ceptyon of proffytt*es* by the ſaid John and James before the ſaid morgage after the which tyme the ſaid Hide by covyne of the ſaid James and one Cutberd Burbage his ſonne contrarye to his faithfull promyſe that hee would aſſure the ſaid leaſe vnto the ſaid John Braynes and to the ſaid James Burbage not any waye takyng advantage of the ſaid morgage did convaye the ſaid leaſe vppon paiement of the ſaid thirty pownd*es* to the ſaid Cutberd only to defeate the ſaid agrement which ſaid convaieance was ſome ſeaven yeares agoe or therabout*es* ſince which tyme the ſaid Cutberd hath taken all the proffytt*es* of the ſaid leaſe The which ſaid leaſe is nowe expired And the ſaid James Burbage is Deceaſed and the ſaid Braynes being yndetted yn the ſome of fyue hundreth pownd*es* to this compl^{t} made his wief Margerette his executrix and Died which Margerette allſo remaynyng in the Dett as aforeſaid to yor ſaid ſubiect made him to that end her executo^{r} and Died ſithence which tyme the ſaid Robert as executo^{r} to the ſaid Margerette the executrixe of the ſaid John Braynes hath often required the ſaid Cutberd and Gyles and Sara to p*er*mytte and ſuffer him to take Downe ſuch buyldinge*s* as by the covenaunte aforeſaid were to be taken downe and to allow this comp^{l} the moytye of the tymber and other thinges or the value of the moytye therof and allſo this compl^{t} hath often required the ſaid Gyles and Sara according to the covenaunte aforeſaid to make to him as executo^{r} of Margerette Braynes aforeſaid executrixe

of the ſaid John a leaſe of the moytye of the premyſſes before Demyſed accordinge to the covenaunte and agrement*es* aforeſaid and allſo allthoughe the ſaid Robert hath required the ſaid Cutberd to allowe him the arrerages of the moyty of the p*ro*ff-fytt*es* of the Demyſed p*re*myſſes aforeſaid receyved by the ſaid Cutberd ſythence the convayance therof to him Made by John Hide aforeſaid yett that to Doe they vtterly Deny contrarye to all equitye and good conſcience and Wheras allſo the ſaid James had taken all the p*ro*ffyttes of the ſaid demyſed p*re*myſſes contrarye to the truſte aforeſaid vntill thaſſignement made by Hide as aforeſaid to the ſaid Cutberd and becauſe hee was other wyſe yndebted to the ſaid Braynes in obligacyons in ſixe hundreth pownd*es* and ſithence Died inteſtate and one Ellen Burbage hath taken admynyſtracyon of the good*es* of the ſaid James and hath gotten good*es* and chattells of his into her hand*es* amounting to a thowſand pownd*es* refuſeth to paie and allowe to this comp^{l} the arrerages of the moytye of the p*ro*ffyttes taken by the ſaid James before the ſaid aſſignem^{t} and allſo to paie the ſaid other Dett*es* alledging ſhee hath noe good*es* in her hand*es* vnadmynyſtred wherby yor ma^{tes} pore ſubiect is likely eu*e*ry waie to be Defeated except hee maie haue ſome releyf before yor ma^{tye} in this honnorable court And foraſmuche allſo as yor ma^{tes} pore ſubiect is alltogether without his remedy att the com*m*on law for the recou*e*rye of the moytye of the p*ro*ffitt*es* of the Theater & other the land*es* and tennement*es* ſoe wrongfully taken by the ſaid James and Cutberd Burbage by the reaſon that the ſaid John Braynes had noe aſſignem^{t} made vnto him of the ſaid leaſe ſoe taken by the ſaid James Burbage of the ſaid Gyles Allen allthough yt were taken as well to the vſe of the ſaid John Braynes as vnto the vſe of the ſaid James and ſoe lykewyſe of the ſaid bennefytte of all the covenaunt*es* conteyned in the ſaid leaſe and foraſmuche allſo as yor Ma:^{tes} pore ſubiect hath noe remedye by the com*m*on lawe to compell the ſaid Gyles Allen and the ſaid Sara to make a New leaſe according to his covenaunt*es* conteyned in the ſaid leaſe for a longer tyme allthough hee is yntereſſed yn all equitye in the ſame as executo^{r} vnto the ſaid Margerette Braynes thexecu-

trixe of the ſaid John Braynes who beſtowed all the Coſt in effect vppo*n* the buyldinge*s* & ſtood vppo*n* the faithfull p*ro*mas of the ſaid James & Cutber*d* to have a moytie of the ſaid leaſe to be aſſigned and foraſmuche allſo as yor Ma:^tes^ pore ſubiect ys alltogether w^th^out his remedye vppon the ſaid bond*es* of ſixe hundreth pownd*es* as aforeſaid they being made void by the connyng practyzes of the ſaid James Burbage Cutbert Burbage & the ſaid Ellen by attachme^tes^ & oth^r^ devyſe And foraſmuche allſo as the ſaid Gyles Allen and Sara haue bynne required to make a lease of the moytye of the premyſſes as aforeſaid who hath refuſed ſoe to doe Jn tender conſideracyon wherof Maie yt pleaſe yor Ma:^tie^ the p*re*miſſs conſidred to graunte vnto yor pore ſubiect yor moſte gracyous writte of Pryvye ſeale to be Derected vnto the ſaid Ellen Burbage Gyles Allen & Sara his wief and Cutbert Burbage comaunding them p*er*ſonally to appeare before yor ma^tes^. counſell of yor highnes court of Requeſt*es* att a certeyne tyme therin lymytted & appoynted then and there to anſwhere the p*re*myſſes and allſo to abide ſuch order and Derectyon as ſhall ſeme to ſtand with goode conſcience And yor ſubiect accordinge to his Duty wyll Dailie praie for yor Ma:^tes^ raigne in all happines long to raigne ou*er* vs To the pleaſure of Allmightye God.

Scott [attorney]

COURT ORDER, MAY 9, 1597

Requests, Misc. Books, vol. 48 (Draft Order Books)

Nono die Maij [A° xxxix R^ne^ Eliz*abethe* (1597)]

Rob*er*te Myles compl^t^ Cuthbert Burbage and others defend^*tes*^ vppon the moc*i*on of m^r^ Walter beinge of counſaill wth the ſaid defend^*tes*^ yt is Ordered that the Atturneis on bothe ſydes conferr the bill p*re*ferred by the pl*aintiff* into her ma^*tes*^ highe Corte of Chauncery againſt the ſaid def^*tes*^ together wth his bill heare dependinge in this corte, And yf vppon reporte thereof to be made yt ſhall appeare that they bothe conteyn one matter in ſubſtaunce and effecte, Then the ſame matter ſhalbe fromhence diſmiſſed/

COURT ORDER, MAY 27, 1597

Idem.

xxvij^mo die Maij A° p*redicto* (1597)

ffor aſmuche as in the cauſe at the ſute of Rob*er*te Myles compl^t^ againſt Giles Allen and others defend^t*cs*^ Mr Scott beinge of counſaill wth the ſaid compl^t^ hathe this day enformed her Ma^t*es*^ counſaill in this corte that the p*er*ſons named in the bill wch form*er*ly depended in Chauncery concerninge this cauſe and in the bill nowe dependinge in this corte concerninge the ſame cauſe are not all one but ſeu*er*all and diſtincte Therefore vppon moc*i*on of Mr Scott aforeſaid yt ys Ordered (notw^th^ſtandinge any former Order) that this cauſe ſhalbe reteyned in corte to be heard in the ſame, And that the ſaid defend^t*es*^ ſhall make their full and p*er*fect Aunſweres vppon their othes vnto the ſaid compl^t*es*^ bill in this corte w^th^out delay at their p*er*ills/

[Succeeding orders, if any, are lost. The Order Books that should have contained them are missing. It is doubtful if answers were ever made, as above ordered. In any case, they are not now extant, for we have searched the records of the Court of Requests from end to end and transcribed for publication all the theatrical documents they contain, without coming upon the answers referred to.]

ALLEN *v.* STREET

Queen's Bench, Trinity, 42 Elizabeth. (1600), m. 587.

[This suit was brought by Giles Allen nominally against Peter Street, the carpenter, but in effect against Cuthbert Burbage, for tearing down the Theatre. In the course of it, the unexecuted lease of 1585, incorporating main parts of the original lease of 1576, is quoted entire. The case was stopped by the Court of Requests, first by injunction of April 10, 1600, and finally by decree of Oct. 18, 1600. See next suit. The present suit was found by Halliwell-Phillipps, who quoted extracts from it in his *Outlines,* I, 348–49, 359–60, 361–373. Allen caused the pleadings to be entered on the records, contrary to an order of the Court of Requests of May 31, 1600. See affidavit of Cuthbert Burbage on it, June 11, 1600, Sir Julius Caesar's order, of same date, for arrest of Allen for contempt, Allen's statement of the affair, in his Star Chamber suit, Allen *v.* Burbage, 1602, and the examination of Richard Lane in the same suit.]

Adhuc de Termino ſancte Trinitatis Teſte J. Popham

Midd ſſ Memorandum quod alias ſcilicet Termino Paſche Anno regni domine Elizabethe nunc Regine Anglie quadrageſimo primo coram eadem domina Regina Apud Weſtmonaſterium venit Egidius Aleyn Armiger per Johannem Tanner Attornatum ſuum Et protulit hic in Curia dicte domine Regine tunc ibidem quandam billam ſuam verſus Petrum Strete in Cuſtodia Marrefcalci &c de placito tranſgreſſionis Et sunt plegii de proſequendo ſcilicet Johannes Dov & Ricardus Rov Que quidem billa ſequitur in hec verba ſſ Middleſexia ſſ Egidius Aleyn Armiger queritur de Petro Strete in Cuſtodia Marrefcalci Mareſcalcie domine Regine coram ipſa Regina exiſtente de eo quod ipſe viceſimo die Januarij Anno regni domine Elizabethe nunc Regine Anglie quadrageſimo primo vi & armis &c Claufum ipſius Egidij vocatum the Jnner Courte yarde parcellam nuperi Monaſterij Prioratus de Hallywell modo diſſoluti Apud Hallywell in Comitatu predicto fregit & intrauit Et herbam ipſius Egidij ad valenciam quadraginta ſolidorum adtunc in Claufo predicto creſcentem pedibus ſuis ambulando conculcauit & conſumpſit Et quandam structuram ipſius Egidij ibidem fabricatam & erectam vocatam the Theater ad valenciam ſeptingentarum librarum adtunc & ibidem diruit diſſulſit cepit & abcariauit Et alia enormia ei intulit contra pacem dicte domine Regine ad dampnum ipſius Egidij octingentarum librarum Et inde producit ſectam &c

Et modo ad hunc diem ſcilicet veneris proximum proſt Craſtinum ſancte Trinitatis iſto eodem Termino vſque quem diem predictus Petrus Strete habuit licenciam ad billam predictam interloquendum Et tunc ad reſpondendum &c Coram domina Regina apud Weſtmonaſterium venerunt tam predictus Egidius Alleyn per Attornatum ſuum predictum quam predictus Petrus Strete per Thomam Petre Attornatum ſuum Et idem Petrus defendit vim & iniuriam quando &c Et quoad venire vi & armis ac totum & quicquid quod eſt ſuppoſitum fieri contra pacem dicte domine Regine nunc preter fraccionem & intracionem in claufum predictum & herbe predicte conculcacionem & conſumpcionem Necnon

dirupcionem divulcionem capcionem & abcariacionem predicte Structure vocate the Theater idem Petrus dicit quod ipse in nullo est inde culpabilis Et de hoc ponit se super patriam Et predictus Egidius similiter &c Et quoad predictam fraccionem & intracionem in claufum predictum & herbe predicte conculcacionem & conſumpcionem necnon dirupcionem divulcionem capcionem & abcariacionem predicte Structure vocate the Theater idem Petrus dicit quod predictus Egidius accionem suam predictam inde verſus eum habere seu manutenere non debet quia quoad predictam fraccionem & intraccionem in claufum predictum & herbe predicte conculcacionem & conſumpcionem idem Petrus dicit quod predictus Egidius Alleyn dudum ante predictum tempus quo supponit tranſgreſſionem illam fieri ſeiſitus fuit de & in predicto Claufo cum pertinentiis in quo &c in dominico suo vt de feodo Et sic inde ſeiſitus exiſtens idem Egidius poſtea & ante predictum tempus quo &c scilicet die Anno regni dicte domine Elizabethe nunc Regine Anglie apud Halliwell predictam in predicto Comitatu Middleſexia dimiſit conceſſit & ad firmam tradidit cuidam Cutberto Burbage executoribus & Aſſignatis suis Claufum predictum cum pertinentiis habendum & tenendum Claufum predictum cum pertinentiis eidem Cutberto Burbage quidem ambabus partibus placeret reddendo pro inde annuatim durante termino predicto quatuordecim libras legalis monete Anglie heredibus & aſſignatis suis ad quatuor anni terminos videlicet ad feſta Annunciacionis beate Marie virginis Nativitatis ſancti Johannis Baptiſte ſancti Michaelis Archangeli & Natalis domini per equales porciones virtute cuius quidem dimiſſionis predictus Cutbertus in Claufum predictum cum pertinentiis in quo &c intrauit & fuit inde poſſeſſionatus per quod idem Petrus vt ſeruiens eiuſdem Cutberti ac per eius mandatum predicto tempore quo &c in predictum Claufum in quo &c fregit & intrauit Et herbam in Claufo predicto creſcentem pedibus ambulando conculcauit & conſumpſit prout ei bene licuit Et quoad predictas dirupcionem divulcionem capcionem & abcariacionem predicte structure vocate the Theater idem Petrus dicit quod dudum ante tranſgreſſionem illam superius fieri suppoſitam pre-

dictus Egidius Alleyn & Sara vxor eius fuerunt coniuncte seisiti de predicto clauso vocato the Jnner Courte dudum parcella dicti nuperi monasterij Prioratus de Hollowell modo diſoluti in dominico suo vt de feodo Et ijdem Egidius & Sara sic inde seiſiti exiſtentes dudum ante tranſgreſſionem predictam superius fieri suppoſitam scilicet decimo tercio die Aprilis Anno regni dicte domine Elizabethe nunc Regine Anglie decimo octauo apud Hollywell predictam in predicto Comitatu Middlesexia per quandam Jndenturam factam inter eoſdem Egidium Alleyn per nomen Egidij Allyen de Hollywell in Comitatu Middlesexia generoſi & Saram vxorem eius de vna parte & Jacobum Burbage de londonia Joyner ex altera parte cuius alteram partem sigillis ipſorum Egidij Alleyn & Sare vxoris eius sigillatam idem Petrus hic in Curia profert dimiſerunt clauſum predictum cum pertinentiis inter alia eidem Jacobo Burbage habendum & tenendum clauſum predictum cum pertinentiis prefato Jacobo Burbage executoribus & aſſignatis suis a feſto Annunciacionis beate Marie virginis vltimo elapſo ante datum Jndenture predicte vſque finem & terminum viginti & vnius annorum extunc proxime & imediate sequentem & plenarie complendum & finiendum Et predictus Jacobus Burbage per eandem Jndenturam convenit & conceſſit pro se heredibus executoribus administatoribus & aſſignatis suis & pro quolibet eorum ad & cum prefato Egidio Alleyn & Sara vxore eius heredibus & aſſignatis suis quod ipſe idem Jacobus Burbage executores vel Aſſignati sui tam in conſideracione predicte dimiſſionis & termini annorum per Jndenturam predictam conceſſam quam pro & in conſideracione Maheremij laterum anglice Bricke tegularum plumborum & omnium aliarum rerum anglice ſtuffe provenientum de tenementis horreo & omnibus alijs premiſſis per Jndenturam predictam dimiſſis ad eius aut eorum cuſtagia & oncra infra decem annos proxime sequentes datum Jndenture predicte impenderent & exponerent in & super edificacionem alteracionem & emendacionem predictarum domorum & edificiorum pro melioracione eorundem vt in eadem Jndentura predicta prefertur per prefatum Jacobum Burbage executores seu aſſignatos suos faciendas summam ducentarum librarum legalis mo-

nete Angl*ie* ad minus valore tant*i* pred*ict*or*um* vet*er*um Maherem*ij* & re*rum* angl*ice* stuffe circa ead*em* impendend*orum* & exponend*orum* Computat*o* p*ar*cell*a* p*redicte* summ*e* ducenta*rum* libra*rum* Et vete*r*ius p*redicti* Egidius Alleyn & Sara vxor eius convenerunt & conceſſerunt p*ro* seip*ſis* & heredib*us* executorib*us* adminiſtratorib*us* & aſſign*atis* suis & p*ro* quolib*et* eo*rum* ad & cum p*refato* Jacobo Burbage executorib*us* & aſſign*atis* suis p*er* eandem Jndenturam q*uo*d ijdem Egidius & Sara vel vnus eo*rum* vel hered*es* vnius eo*rum* ad aliquid tempus vel tempora infra decem annos p*roxime* sequent*es* dat*um* Jndenture p*redicte* ad & sup*er* licitam requiſic*ionem* vel demand*am* p*redicti* Jacobi Burbage executo*rum* adminiſtrato*rum* vel aſſign*atorum* suo*rum* ad eius & eo*rum* cuſtag*ia* & one*r*a in lege face*r*ent aut fieri cauſarent p*refato* Jacobo Burbage executorib*us* aut aſſignat*is* suis novam dimiſſionem seu conceſſionem sim*i*lem conceſſioni in Jndentura p*redicta* specificat*e* omn*ium* p*redictorum* Meſuagio*rum* tenemento*rum* terra*rum* fundi & soli & cete*r*o*rum* p*re*miſſo*rum* p*er* Jndenturam p*redict*am p*re*conceſſo*rum* p*ro* t*er*mino viginti & vnius anno*rum* incipiendo a die confecc*ionis* eiuſdem conceſſionis sic fac*iende*/ reddendo p*ro*inde annuatim p*redict*um annualem redditum quatuor decem libra*rum* ad feſta p*re*menc*ionat*a & sub t*ali*b*us* condic*ionib*us* convenc*ionib*us* Artic*u*lis & agreement*is* qual*es* ante & poſt hanc convenc*ionem* in p*redicta* Jndentura menc*ionant*ur & expreſſant*ur* & non al*iter* p*re*ter hanc convenc*ionem* p*ro* confecc*ione* nove dimiſſionis infra decem annos & p*redict*am convenc*ionem* p*ro* impendic*ione* anglice the beſtowinge p*redicte* summ*e* ducent*arum* libra*rum* p*ro*ut p*er* erudit*um* concili*um* p*redicti* Jacobi executo*rum* vel aſſign*atorum* suo*rum* racionabilit*er* adviſaret*ur* vel deviſaret*ur* modo & forma p*redict*is/ Et vlterius p*redicti* Egidius Alleyn & Sara vxor eius convenerunt & conceſſerunt p*ro* seip*ſis* heredib*us* executorib*us* & aſſign*atis* suis & quolib*et* eo*rum* sep*a*ratim convenit & conceſſit ad [&] cum p*refato* Jacobo Burbage executorib*us* & aſſign*atis* suis q*uo*d licit*um* foret eidem Jacobo executorib*us* seu aſſignat*is* suis in confideracione impendic*ionis* & expoſic*ionis* p*redict*a*rum* ducenta*rum* libra*rum* modo & forma p*redict*is ad aliquod tempus & tempora

ante finem p*redicti* t*ermini* viginti & vnius anno*rum* p*er* p*re*dict*am* Jndentur*am* conceſſ*i* aut ante finem p*redicti* T*er*mini viginti & vnius anno*rum* poſt confecc*i*onem Jndentur*e* p*re*dict*e* virtute eiuſdem Jndentur*e* concedend*e* h*ab*ere diruere & abcariare ad eius aut eo*rum* p*ropr*i*um* vſum imp*er*p*etuum* om*n*ia t*a*lia edificia & omnes al*ias* res qual*ia* edificat*a* erect*a* aut suppo*ſ*it*a* forent anglice sett vpp in & sup*er* gardinu*m* & locis vacuis anglice the groundes p*er* Jndentur*am* p*re*dict*am* conceſſ*is* aut aliqua p*ar*te inde p*er* p*re*dict*u*m Jacobum executores vel aſſign*atos* suos aut p*ro* theatro voc*ato* a theater or playinge place aut p*ro* aliquo alio licito vſu p*ro* eius aut eo*rum* Com*m*oditat*e* p*re*ter tal*ia* edificia qual*ia* poſt hac fact*a* fuerunt virtute p*re*miſſo*rum* p*re*dict*orum* rac*i*one impendic*i*onis & expoſic*i*onis p*re*dict*e* sum*m*e ducent*arum* libr*arum* abſq*ue* aliquo impedimento clam*atione* tribulac*i*one vel interrupc*i*one p*re*dict*orum* Egidij Alleyn & Sare vx*or*is eius aut alt*er*ius eo*rum* aut hered*um* execut*orum* adminiſtrat*orum* & Aſſign*atorum* eo*rum* vel alicuius eo*rum* aut aliqua*rum* al*iarum* p*er*ſone vel perſona*rum* in vſu anglice behalfe iure aut tit*ulo* aut p*er* remediu*m* anglice by the meanes vel p*ro*curament*um* eo*rum* vel aliquo*rum* eo*rum* Et vlt*er*ius idem Petrus Streete dicit q*uo*d p*re*dictus Jacobus Burbage virtute dimiſſionis p*re*dict*e* in ten*e*m*en*ta p*re*dicta cum p*er*tin*entiis* intrauit & fuit inde poſſeſſionat*us* Et sic inde poſſeſſionat*us* exiſten*s* id*e*m Jacobus Burbage ad eius cuſtag*ia* & on*er*a infra p*re*dict*o*s decem annos p*roxime* sequen*tes* dat*um* Jndenture p*re*dict*e* impe*n*didit & expoſuit de & sup*er* edificac*i*one alt*er*ac*i*one & emendac*i*one ten*e*m*en*to*rum* & edific*i*o*rum* p*re*dicto*rum* p*er* ip*ſ*u*m* Jacobum Burbage vt p*re*fert*ur* de & sup*er* p*re*miſſis f*ac*iend*is* sum*m*am ducenta*rum* libr*arum* leg*a*lis monete Angl*ie* valore tant*i* p*re*dict*orum* vet*er*um Maheremij & re*rum* anglice stuffe circa ead*e*m impenſ*orum* & expoſit*orum* accomputat*o* p*ar*cella p*re*dict*e* sum*m*e ducenta*rum* libr*arum* Et vlt*er*ius q*uo*d p*re*dict*us* Jacobus infra p*re*dict*o*s decem annos p*roxime* poſt dat*um* Jndentur*e* p*re*dict*e* ad eius p*ropr*i*a* on*er*a & expenſ*a* fabricauit & erexit sup*er* p*re*dict*a* vacua funda Structur*am* p*re*dict*am* vocat*am* the theater in narrac*i*one p*re*dict*a* specificat*am* Et vlt*er*ius idem Petrus Streete dicit q*uo*d p*re*dict*us* Jacobus Burbage poſt confecc*i*onem Jndenture p*re*dict*e* & infra

predictos decem annos proxime sequentes datum Jndenture predicte scilicet primo die Novembris anno regni dicte domine Regine nunc vicesimo septimo apud Hallywell predictam in Comitatu Middlesexia predicto ad eius propria onera & custagia retinuit quendam Willelmum Danyell armigrum nunc seruientem ad legem fore a concilio suo ad devisandum novam dimissionem similem dimissioni in eadem Jndentura specificate omnium predictorum mesuagiorum tenementorum terrarum fundi & soli & ceterorum premissorum per Jndenturam predictam preconcessorum pro termino viginti & vnius annorum incipiendo a die dati Jndenture predicte sic vt prefertur faciende Et quod predictus Willelmus Danyell postea scilicet predicto primo die Novembris anno vicesimo septimo predicto apud Hallywell predictam in Comitatu Middlesexia predicto devisauit vnam novam dimissionem premissorum predictorum que quidem nova demissis sequitur in hec verba ff This Jndenture made the fyrst daye of November in the Seaven & twentythe yeare of the reigne of our soueraigne ladye Queene Elizabeth &c Betweene Gyles Allen of Holliwell in the Countye of Middlesex gen & Sara his wyfe of the one party And James Burbage of london Joyner of thother party witnesſethe That the saide Giles Allen and Sara his wyfe of one assent & consent in accomplishing & fulfilling of a certayne Covenante conteyned & mencioned in one former Jndenture of lease made of the landes & tenementes herafter mencioned bearinge date the thirteenth daye of Aprill Anno domini 1576 and in the eighteenthe yeare of the raigne of our fore sayde soueraigne ladye queene Elizabeth made betweene the sayde Gyles & Sara his wyfe one thone partie and the sayde James Burbage on thother have sett & to ffarme letten & by thes presentes doe sett & to farme lett vnto the sayde James Burbage all thos two howses or tenementes wth appurtenances wch att the tyme of the sayde former demise made weare in the seuerall tenures or occupacions of Johan Harrison widowe & John Dragon and also all that howse or tenement wth Thappurtenances together wth the gardyn grounde lyinge behinde parte of the same beinge then likewise in the occupacion of William Gardiner wch sayd gardeyn plott dothe extende

in bredthe from a greate stone walle there wch doth incloſe p*ar*te of the gardyn then or latlye beinge in the occupac*i*on of the sayde Gyles vnto the gardeyne ther then in the occupac*i*on of Ewin Colfoxe weaver & in length from the same howſe or tenement vnto a bricke wall ther next vnto the feild*es* com*m*only called ffinſbury feild*es* And alſo all that howſe or ten*emen*te wth thapp*ur*tenanc*es* att the tyme of the sayde former dimiſe made called or knowne by the name of the Mill howſe together with the gardyn grounde lyinge behinde p*ar*te of the same alſo att the tyme of the sayde former dimiſe made beinge in the tenure or occupac*i*on of the foreſayde Ewyn Colefoxe or of his aſſignes wch ſayde gardyn grounde dothe extende in lengthe from the ſame houſe or tenement vnto the forſayde bricke wall next vnto the foreſayde feild*es* and alſo all theſe three vpp*er* romes wth Thappurtenanc*es* next adioyninge to the foreſayde Mill houſe alſo beinge att the tyme of the ſayde former dimiſe made in the occupac*i*on of Thomas Dancaſter shomaker or of his aſſignes and alſo all the nether romes wth thapp*ur*tenanc*es* lyinge vnder the same three vpper romes and next adioyninge alſo to the foreſayde houſe or ten*emen*te called the mill houſe then alſo beinge in the seu*er*all tenurs or occupac*i*ons of Alice Dotridge widowe & Richarde Brockenburye or of ther aſſignes together with the gardyn grounde lyinge behynde the same extendynge in lengthe from the same nether romes downe vnto the forſayde brickwall nexte vnto the foreſayde feild*es* And then or late beinge alſo in the tenure or occupac*i*on of the foreſayde Alice Dotridge And alſo so much of the grounde & soyle lyeinge and beinge afore all the ten*emen*tes or houſes before graunted as extendethe in lengthe from the owtwarde p*ar*te of the foreſayde Tenemente*s* beinge at the tyme of the makinge of the sayde former dimiſe in the occupac*i*on of the foreſayde Johan Harryſon & John Dragon vnto a ponde there beinge next vnto the barne or stable then in the occupac*i*on of the right hon*or*able the Earle of Rutland or of his aſſignes & in bredthe from the foreſayde Ten*emen*te or mill houſe to the mideſt of the well beinge afore the same ten*emen*tes And alſo all that great barne with thappurtenanc*es* att the

tyme of the makinge of the sayde former dimiſe made beinge in the seu*er*all occupac*i*ons of Hughe Richard*es* Jnholder & Rob*er*t Stoughton Butcher And alſo a little peece of grounde then incloſed wth a pale and next adioyninge to the foreſayde barne & then or late before that in the occupac*i*on of the sayde Rob*er*te Stovghton together alſo wth all the grounde & soyle lyinge & beinge betwene the sayde neyther romes laſt before expreſſed & the foreſayde greate barne & the foreſaide ponde that is to saye extendinge in length from the foreſayde ponde vnto a ditche beyonde the brick wall next the foreſayde field*es* And alſo the ſayde Gyles Allen & Sara hys wyfe doe by thes p*re*ſentes dimiſe graunte & to ſarme lett vnto the sayde Jeames burbage all the right title & inter*est* wch the sayde Gyles & Sara haue or ought to haue of in or to all the ground*es* & soile lyeinge betwene the foreſayde greate barne and the barne being at the tyme of the ſayde former dimiſe in the occupac*i*on of the Earle of Rutlande or of his aſſignes extendinge in lengthe from the foreſayde ponde & from the forſayde stable or barne then in the occupac*i*on of the foreſayde Earle of Rutlande or of his aſſignes downe to the foreſayde bricke wall next the foreſayde feild*es* And alſo the sayde Gyles & Sara doe by thes p*re*ſente*s* demiſe graunt & to fearme let to the sayde Jeames all the sayde voide grounde lieynge & beinge betwixt the foreſayde ditche & the foreſayde brich-wall extendinge in lenght from the foreſayde brickwall wch incloſeth parte of the foreſayde garden beinge att the tyme of the makinge of the sayde former demiſe or late before that in the occupac*i*on of the sayde Giles Allen vnto the foreſayde barne then in the occupac*i*on of the foreſayde Earle or of his aſſignes and alſo free intire egreſſ*e* & regreſſ*e* in to & from all the foreſayde dimiſede p*re*miſſes and eu*er*y parte therof aſwell to & for the ſayde Jeames Burbage his executors adminiſtrators & aſſignes as to & for all & eu*er*y other p*er*ſon & p*er*ſons cominge or reparinge to the p*re*miſſs before demiſed or any p*ar*te therof by any such wayes as were at the makinge of the sayde former demiſe vſed & occupied to the said p*re*miſſs in the right of the sayde Gyles as alſo by such brydges & wayes as then or att any tyme

after that weare or shalbe hereafter made throughe the foreſayde brickwall into the foreſayde feilde*s* at all & eue*r*y tyme & tymes convenient hereafter duringe all the tearme of yeares hereafter graunted without any lawfull stoppe lett trouble or int*er*rupc*i*on of the sayde Gyles Allen his heres or aſſignes or any of them or of any other p*er*ſon or p*er*ſons in his or theire behalfe right or title or by his or theire meanes or p*ro*curement all wch p*re*miſſs before graunted are scituate lyeinge & beinge in & neere Hollowell aforeſaide (excepte & reſerued vnto the sayde Gyles Allen & Sara his wyfe & to theire heires & aſſignes & to such other p*er*ſon or p*er*ſons as ſhall or doe inhabite or make aboade in the Capital Meſuage or tenement ther or any p*ar*te therof wch att the makinge of the sayde former demiſe was in the occupac*i*on of the sayde Gyles or his aſſignes & to & for the Ten*an*te*s* of the sayde Gyles wch doe & shall dwell in Hollowell aforeſayde free lib*er*tie to fetche & drawe water att the foreſayde well from tyme to tyme duringe the sayde Tearme so that they shall receyve the com*m*oditie of the sayde well doe from tyme to tyme amonge them ratably vpon lawfull requeſt beare & paye to the sayde Jeames Burbage his executors or aſſignes the one halfe of all such Charges as shalbe layede out in & about the needfull repayring & amendinge of the sayde well from tyme to tyme as often as neede shall require duringe the sayde terme & alſo free ingreſſ*e* & regreſſ*e* to & for the sayde Gyles & Sara his wyfe & there heyres aſſignes executors & s*er*uante*s* & to & for the reverend father John Scorye Byſhoppe of Hereford & Elizabeth hys wyfe & their s*er*uante*s* & aſſignes into out & from the foreſayde greate garden att the tyme of the makinge of the sayde former demiſe or late before that belonginge to the sayde Gyles into the foreſayde feilde*s* by the bridge and waye which then was therunto vſed & occupied at all lawfull tyme & tymes duringe the termes of yeares herevnder graunted to have & to holde all the sayde hovſes or Ten*e*m*e*nte*s* barne gardens groundes & all other the p*re*miſſs before graunted except before excepted vnto the sayde Jeames Burbage his executors & aſſignes from the day of the makinge of this p*re*ſent demiſe vnto the full ende & tearme of

xxj° yeares from thence next and imediatlie followinge & fully to be compleate & endede yeildinge & payinge therefore yearelie duringe the sayde Terme vnto the sayde Gyles Allen & Sara his wyfe or to one of them & to the heyers & of the same Gyles & Sara forteene pound*es* of lawfull monie of Englande att fower feaſt*es* or tearmes in the yeare that is to saye att the feaſt*es* of the birthe of our lorde gode the Annunciac*i*on of our ladye the nativitie of St John Baptiſt & St Michaell thearchangell by even porc*i*ons And the sayde James Burbage for him his executors Adminiſtrators & aſſignes dothe Covenaunt p*ro*miſe & graunt to & with the sayde Gyles Allen & Sara ther heires & aſſignes & eu*er*ye of them by thes p*re*ſentes That he the sayde Jeames Burbage his executors adminiſtrators or aſſignes at his and ther owne p*ro*per coſt*es* & charges the sayde houſes or ten*e*m*en*t*es* barne gardens & all other the p*re*miſſes before graunted and all privies to the p*re*miſſs or any p*ar*te therof belonginge made or to be made in all manner of needfull rep*ar*ac*i*ons well & sufficiently shall repare vpholde suſtayne make skoure clenſe mayntayne & amende from tyme to tyme when and so often as neede shall require & the same so well & sufficientlye repaired clenſed scoured and amended in the ende of the sayde terme of xxj^{tie} yeares shall leave & yeild vpp vnto the sayde Gyles & Sara and to the heirs & aſſignes of the same Gyles & the sayde Gyles Allen & Sara his wyfe for them & ther heirs executors & adminiſtrators doe covenant & graunt & eu*er*y of them seu*er*ally covenanteth & graunteth to & with the sayde Jeames Burbage his executors adminiſtrators & aſſignes by thes p*re*f*e*ntes that yt shall or may be lawfull to & for the sayde Jeames Burbage his executors adminiſtrators & aſſignes or anie of them att anie tyme of tymes hereafter duringe the firſt tenn yeares of the sayde terme of xxj^{tie} yeares to alter change remove or take downe any of the howſes wall*es* barne or byldinge*s* now standinge & beinge in & vppon the p*re*miſſs or any p*ar*te therof & the same to make frame & sett vpp in what forme or faſhion for dwelling howſe or howſes as yt shall seeme to the sayde Jeames Burbage his executors or aſſignes for the bettringe therof so that the p*re*miſſs

& new buyldyngs hereafter to be made shall or may be reaſonably for tyme to tyme sett att a more value & greater rent then nowe by theſe Jndentures they are set or lett for towardes the doeinge & finiſhinge wherof in forme aforeſayde the sayde Gyles allen & Sara his wyfe for them their heyers executors adminiſtrators and aſſignes doe covenante & graunt & euery of them seuerally covenanteth & granteth to & wth the sayde Jeames burbage his executors adminiſtrators and aſſignes by thes preſents y^{t} yt shall & maybe lawfull to & for the sayde Jeames burbage his executors & aſſignes to haue & take to his & ther owne proper vſe & behofe for euer all the tymber tyle bricke yron leade & all other stuffe whatſouer of the sayde oulde howſes or buildinges wch shall come by reaſon therof and further the sayde Jeames burbage for him hys heyres executors adminiſtrators & aſſignes and for euery of them dothe by thes preſentes covenante & graunte to & wth the sayde Gyles Allen & Sara ther heires & aſſignes & euery of them in forme followeinge that ys to saye that he the sayde Jeames burbage his executors & aſſignes the buildings covenanted by the sayde Jeames burbage his executors or aſſignes by the sayd former Jndenture to be by him or them made shall att all tymes after the makinge therof att the coſtes & charges of the sayde Jeames his executors or aſſignes repaire keepe make & mayntayne from tyme to tyme as often as neede shall bee duringe the sayde Terme by thes preſentes graunted and all the sayd meſſuages buildings gardens tenements & other the premiſſs & euery parte therof together wth the foreſayde brick wall next the foreſayde feildes or annother as goode highe & subſtanciall as the same is in the stead therof to be made sufficiently repayred made & amended in thende of the sayde Tearme shall leave & yealde vpp vnto the sayde Gyles Allen & Sara their heires & aſſignes And further that yt shall or may be lawfull to & for the sayd Gyles Allen & Sara his wyfe & the Survivor of them their heires & aſſignes of them or any of them wth twoe or three artificers or workmen wth them or any of them att any one tyme convenient in euery yeare yearly duringe the sayde Terme quietlye to enter & come into the sayde meſſuages or tenements barne buildings &

all other the p*re*miſſs & eu*er*y p*ar*te therof their to vewe searche & se whether the rep*ar*ac*i*ons therof be well & sufficiently amended made mayntaynede kepte as the same ought to be or not So as the same Gyles & Sara or the Survivor of them or the heirs or affignes of them or either of them before such tyme as he she or any of them shall come to vewe the same p*re*miſſs to give to the sayde Jeames burbage his executors or affignes att the p*re*miſſs fourteene dayes warninge therof And of the default*es* & lack*es* or rep*ar*ac*i*ons ther fonde beinge needfull to be repaired after the buildinge therof to gyve monic*i*on or warninge att the p*re*miſſs to the sayde Jeames burbage his executors or affignes or to the inh*ab*itors dwellers or occupiers of the p*re*miſſs or any parte therof for the tyme beinge to repare make & and amende all such default*es* of rep*ar*ac*i*ons needfull to be amended as shalbe ther so founde wthin one yeare next after such warning gyven & the sayde Jeames burbage for him his executors and adminiſtrators and for eu*er*y of them covenanteth & graunteth by thes p*re*f*en*t*es* to & wth the sayde Gyles Allen & Sara ther heires executors and affignes & eu*er*y of them well & sufficientlye to repayre make & amende all such default*es* of rep*ar*ac*i*on as shalbe so fonde wthin one yeare next after warninge therof gyven as is aforeſayde & so from tyme to tyme as often as any such default shall happen to be fonde & warninge or knowledge therof gyven as is aforeſayde duringe the sayde terme of one & twentye yeares to be repayred att the p*ro*per coſt*es* & charges of the sayde Jeames Burbage his executors and affignes and if ytt shall happen the sayde yerelie rent of fourteene pound*es* to be behinde vpayde in p*ar*te or in all ou*er* or after any feaſt daye of paymente therof aforeſayde at wch the same rent ought to be payde by the space of xxviij^{tie} dayes beinge lawfully aſked & noe sufficiente diſtreſſe or diſtreſſes in & vpon the sayde p*re*miſſs or any parte therof for the sayde rent & arrearages therof can or may be founde or if the some of CC^{li} menc*i*oned & expreſſed in the foreſayde former Jndenture of leaſe shall not be imployed or beſtowed wthin the tyme therin limited & appoynted for the imployinge & beſtowinge therof accordinge to the true intent & meaninge of the foreſayde

Jndenture of leaſe or of the needfull repa*r*acions of the p*re*miſſs shall not be made from tyme to tyme wthin the space of one yeere after that lawfull warninge shalbe therof gyven vnto the sayde Jeames Burbage his executors or aſſignes for the doinge therof as is aforeſayed that then or att any tyme after yt shalbe lawfull to & for the sayde Gyles Allen & Sara his wyfe and the heirs and aſſignes of the same Gyles or any of them into the sayd howſes or tenements barne & all other the p*re*miſſs before graunted to reenter And the same to haue agayne retyne & repoſſeede as in his or ther former eſtate And the sayde Jeames Burbage his exec*utors* & aſſignes & all other thence & therfrom vtterly to expell putt out & amove this p*re*ſent leaſe or graunte or any thinge therin conteyned to the contrary therof in anywyſe not wthſtandinge And moreover the sayde Gyles Allen & Sara hys wyfe for them ther heires executors & adminiſtrators doe covenant graunt & eu*e*ry of them seu*e*rally Covenaunteth to & wth the sayde Jeames Burbage his executors adminiſtrators & aſſignes by thes p*re*ſ*entes* that the sayde James Burbage his executors adminiſtrators & aſſignes for the foreſaid yerlye rent of fourteene pound*es* to be payde in forme aforeſayde And vnder & accordinge to the Covenant*es* graunt*es* Chardges & condic*i*ons articles & agreaments before declared & hereafter expreſſed one the behalfe of the sayde James Burbage his executors adminiſtrators or aſſignes to be p*er*formed & kepte as is aforeſayde shall & may peaceably & quietlye have houlde occupie & enioye all the foreſayde howſes or ten*ementes* barne gardens groundes & all other the p*re*miſſs before by theſe p*re*ſ*entes* demiſed & graunted wth thapp*ur*tenaunc*es* (except before excepted) wthout anie lett troble expulc*i*on evicc*i*on recou*e*ry or int*e*rrupc*i*on of the sayde Gyles Allen & Sara his wyfe or either of them or of the heires executors adminiſtrators or aſſignes of them or of any of them or of any other p*er*ſon or p*er*ſons in ther behalfe right or title or by the meanes or p*ro*curment of them or any of them during all the sayd terme of xxj^{tie} yeares And further the sayde Gyles Allen & Sara his wyfe for them there heres executors & adminiſtrators doe covenante & graunte & eu*e*ry of them seu*e*rally cove-

nantethe & graunteth to & with the sayde Jeames Burbage his executors & assignes by thes p*re*sentes that yt shall or may be lawfull for the sayde Jeames Burbage his executors or assignes in consideracion for the imployinge & bestoweinge of the foresayde some of CC^{li} mencioned in the sayde former Jndenture at any tyme or tymes before the end of the sayd terme of xxj^{tie} yeares by thes p*re*sentes granted to have take downe & Carrye awaye to his & their owne proper vse for euer all such buildinges & other thinges as are alredye builded erected or set vpp & wch herafter shalbe builded erected or sett vp in or vpon the gardings & voyde grounde by thes p*re*sentes graunted or any parte therof by the sayde Jeames his executors or assignes eyther for a Theater or playinge place or for any other lawfull vse for his or their Comodityes (except such buildinges as are or shalbe made by vertue of the sayde former Jndenture by reason of the ymployinge & bestoweinge of the sayde some of CC^{li} wthout any stopp Clayme lett trouble or interrupcion of the sayde Giles Allen & Sara his wyfe or either of them or of the heires executors administrators or assignes of them or any of them or of any other person or persons in the behalfe right or tytle or by the meanes or procurment of them & further the sayde Jeames Burbage for hym hys executors administrators & assignes dothe covenaunte to & with the sayde Gyles & Sara their heirs & assignes by thes p*re*sentes that he the sayde Jeames his executors or assignes shall not at any tyme or tymes duringe the said Terme of xxj^{tie} years make or cause to be made out of the foresayd tenementes wch were att the makeinge of the sayde former lease in the occupacion of the sayde John Harrison & John Dragon into the foresayde great garden then or late in thoccupacion of the sayde Gyles any windowe or windowes but only such as shalbe made wthout any easementes to open without the especiall licence consent & agreament of the foresayde reuerende ffather & Elizabeth his wyfe or of the foresaide Gyles & Sara or one of them or ther assignes firste had & obteyned & further that yt shall or may lawfull for the sayde Gyles & for hys wyfe & familie vpon lawfull requeste therfore made to the sayde Jeames Burbage his executors or assignes

to enter or come into the p*re*miſſes & their in some one of the vpper romes to have such convenient place to sett or stande to se such playes as shalbe ther played freely w^th^out any thinge therefore payeinge soe that the sayde Gyles hys wyfe and familie doe come & take ther places before they shalbe taken vpp by any others Jn wytnes wherof both p*ar*tyes to thes p*refe*nte Jndentures enterchangeablye have putt their handes & seales the daye & yeare firſt above written./ Et vlt*er*ius idem Petrus Strete in f*ac*to dic*it* q*uo*d p*redict*us Jacobus Burbage poſtea ſcil*ice*t p*redicto* primo die Novembris Anno viciſimo septimo p*redicto* apud Hollowell p*re*dict*am* in Com*itatu* Midd*lefexia* p*redicto* novem dimiſſionem p*re*dict*am* sic fact*am* adtunc & ib*ide*m in p*er*gamena scrib*i* cauſauit & sic script*am* cum labell*is* & cera eidem dimiſſ*ioni* affix*is* adtunc & ib*ide*m p*re*fat*o* Egidio oſtendebat Et ip*ſu*m Egidiu*m* adtunc & ib*ide*m requiſiuit ad ill*am* sigillandu*m* & p*re*fat*o* Jacobo vt fact*um* suu*m* delib*er*andu*m* s*ecundu*m formam & eff*ectu*m convenc*i*onis p*redicte* in p*redicta* prima Jndentura menc*i*onat*e* Et q*uo*d p*re*d*ict*us Egidius Alleyn ad hoc faci*end*u*m* adtunc & ib*ide*m penit*us* recuſauit Et vlt*er*ius id*e*m Petrus Streete dicit q*uo*d p*redict*us Jacobus Burbage sic vt p*re*fert*ur* de ten*emen*tis p*redict*is cum p*er*tin*entiis* poſſeſſionat*us* ante p*redictu*m tempus quo supponit*ur* t*ra*nſgr*eſſio* p*re*dict*a* fieri apud Hollowell p*redict*am in p*redicto* Com*itatu* Midd*lefexia* conceſſit & aſſignauit ten*emen*ta meſuag*ia* structur*am* & cet*er*a p*re*miſſa p*redicta* ac totum ius statum & t*er*min*um* anno*rum* sua de & in p*re*miſſis cuid*am* Joh*anni* Hyde Civ*i* grocero london*ie* h*ab*end*a* & tenend*a* p*re*dict*a* Meſuag*ia* ac ten*emen*ta edificia gardina terr*as* voc*atas* ground*es* & om*n*ia & singula cet*er*a p*re*miſſa cum p*er*tin*entiis* vnacum p*re*dict*a* Jndentura dimiſſ*ionis* p*re*fat*o* Joh*anni* Hyde executorib*us* & Aſſign*atis* suis p*ro* & duran*te* reſid*uo* p*redicti* Term*ini* viginti & vnius anno*rum* adtunc ventur*i* & mi*n*ime expirat*i* & plenar*ie* complend*i* & finiend*i* virtute cuius p*redict*us Joh*ann*es Hyde in ten*emen*ta p*redicta* cum pertin*entiis* intrauit & fuit inde poſſeſſionat*us* Et idem Johannes Hyde sic inde poſſeſſionat*us* exiſten*s* ante tempus t*ra*nſgr*eſſionis* p*redicte* sup*er*ius fieri suppo*ſite* scilicet septimo die Junij Anno regni d*ic*te d*omi*ne Regine nunc triceſimo primo apud

Hallowell *predict*am in *predicto* com*itatu* Middl*esexia* conceſſit & aſſignauit ten*ement*a meſuag*ia* et cet*er*a p*re*miſſa p*redict*a ac tot*um* statum ius tit*ul*um inter*e*ſſe & t*er*minu*m* anno*rum* Clam*eum* & demand*am* que p*redict*us Johannes Hyde tunc h*ab*uit de & ad p*redict*a p*re*miſſa p*re*fato Cutb*er*to Burbage h*ab*end*a* & tenend*a* ten*ement*a & cet*er*a p*re*miſſa p*redict*a p*re*fato Cutb*er*to executorib*us* adminiſtratorib*us* & aſſign*atis* suis p*ro* & durant*e* toto reſiduo t*er*mini viginti & vnius anno*rum* adtunc venturi & minime expirat*i* plenar*ie* complendi & finiendi virtute cuius p*redict*us Cutb*er*tus in tenementa p*redict*a cum p*er*tinentiis intrauit & fuit inde poſſeſſionat*us* p*er* quod idem Petrus vt s*er*uiens eiuſdem Cutb*er*ti ac p*er* eius mandat*um* p*redict*o tempore quo &c p*redict*am structuram voc*atam* the Theater ib*id*em fabricat*am* & erectam diruit divulſit cepit & abcariauit p*r*out ei bene licuit Cum hoc q*uo*d idem Petrus v*er*ificare vult q*uo*d p*redict*a Jndentur*a* vlt*imo* recitat*a* p*er* p*re*fat*um* Will*elmu*m Daniell sic vt p*re*fert*ur* diviſat*a* fact*a* fuit simi*l*is p*redict*e Jndentur*e* primo mencionat*e* in omnib*us* preter dict*am* convencion*em* p*ro* confeccione novo dimiſſion*is* infra decem annos & p*redict*am convencion*em* p*ro* expendicione anglice the beſtowinge p*redict*e summe ducentar*um* librar*um* Et hoc parat*us* eſt v*er*ificare vnde pet*it* Jud*icium* si p*redict*us Egidius Alleyn accionem suam inde v*er*ſus eum h*ab*ere seu manutenere debeat &c

Et p*redict*us Egidius Alleyn dic*it* q*uo*d ip*ſe* p*er* aliqua p*er* p*redictum* Petrum Streete sup*er*ius pl*ac*itando allegat*a* ab acc*ione* sua p*redict*a v*er*ſus ip*ſum* Petrum h*ab*enda p*re*cludi non debet quia dic*it* q*uo*d pl*ac*itum p*redictum* p*er* ip*ſum* Petrum modo & forma p*redict*is sup*er*ius pl*ac*itat*um* materiaq*ue* in eodem content*a* minus sufficient*ia* in lege exiſtent*ia* ad p*redictum* Egidium ab acc*ione* sua p*redict*a v*er*ſus ip*ſum* Petrum h*ab*enda p*re*cludend*um*/ Ad quod idem Egidius neceſſe non h*ab*et nec p*er* legem t*er*re tenet*ur* aliquo modo reſpondere vnde p*ro* defect*u* sufficient*is* reſponcionis in hac p*ar*te idem Egidius pet*it* iud*icium* & dampna sua p*redict*a occ*a*f*ione* p*redict*a sibi adiudicari &c

Et p*redict*us Petrus Streete dic*it* q*uo*d pl*ac*itum p*redictum* p*er* ip*ſum* Petrum modo & forma p*redict*is sup*er*ius pl*ac*itat*um* ma-

teriaque in eodem contenta bona & sufficientia in lege exiſtentia ad predictum Edigium Alleyn ab accione sua predicta verſus ipſum Petrum habenda precludendum quod quidem placitum materiamque in eodem contentam idem Petrus paratus eſt verificare & probare prout Curia &c

Et quia predictus Edigius ad placitum illud non reſpondit nec illud hucuſque aliqualiter dedicit idem Petrus vt prius petit iudicium & quod predictus Egidius ab accione sua predicta verſus ipſum Petrum habenda precludatur &c Et quia Curia domine Regine hic de iudicio suo de & super premiſſis reddendo nondum adviſata dies inde datus eſt partibus predictis coram domina Regina apud Weſtmonaſterium vſque Jovis diem proximum poſt Octabas sancti Michaelis de Judicio suo de & super premiſſis audiendo &c eo quod Curia domine Regine hic inde nondum &c Et quoad triandum exitum predictum inter partes predictas superius iunctum veniat inde Jurata coram domina Regina apud Weſtmonaſterium die proximo poſt Et qui nec &c ad recogn &c Quia tam &c Jdem dies datus eſt partibus predictis ibidem &c/./
Ex

BURBAGE *v.* ALLEN

Court of Requests Proceedings, 42 Elizabeth, (1600) 87/74. Bill, Answer, and Replication.

[The pleadings in this suit, consisting of Bill, Answer, and Replication, and the two country depositions of Robert Vigerous and Thomas Neville attached to them, were found by Halliwell-Phillipps, who used brief extracts from them in his *Outlines*, I, 346, 358, 359, 361–62, 371–72. The four great sets of paper depositions, forming the principal documents in this great suit, however, have not hitherto been known, and were found by the present writer in carrying out a complete search of the uncalendared records of the Court of Requests begun a few years ago. The complete pleadings and all depositions and other records in the case are here for the first time presented in full, and are arranged in their chronological order rather than in the order of filing. The suit was brought by Cuthbert Burbage for relief from the preceding suit in the Queen's Bench begun by Giles Allen, nominally against Peter Street, the carpenter,

but in effect against Burbage, as pointed out in the Bill. Part of the orders and the final decree are lost. But the Court's judgment in favor of Burbage, pronounced Oct. 18, 1600, is substantially given in the Answer of the Burbages to Allen's Star Chamber suit of 1602.]

BILL

[In dorso]
· xxvj° die Januarij
Anno R Rne Eliz-
abethe &ct xlij°]
Defend*ens* vocet*ur* p*er*
Nunc*ium* Camere/

To the Queenes moſte excellent Matie

In all humblenes Compleyninge ſheweth vnto yor moſte excellente Matie yor highnes faythfull and obediente ſubiecte Cuthbert Burbage of the Cyttie of London gentl*eman* That wheras one Gyles Alleyne of Haſley in the Countie of Eſſex gentl*eman* was lawfullie ſeiſed in his demeaſne as of fee of and in Certayne gardein growndes ſette lyinge and beinge neare Hallewell in the pariſhe of St Leonard*es* in Shorditche in the Countie of Middleſex And beinge ſoe ſeiſed togeather wth Sara hys wief did by their Indenture of leaſe bearinge date the Thirteenth daye of Aprill in the Eighteenthe yeare of yor Maties Reigne for good Conſideracions therin expreſſed Amongeſt other thinges demiſe and to fearme lette the ſaid gardein groundes and all proffitt*es* and Comodities therto belonginge vnto one James Burbage father of yor ſaide ſubiecte To haue and to houlde to him the ſaid James Burbage his executors and Aſſignees from the feaſte of the Annunciac*i*on of our Ladie then laſte paſte before the date of the ſaide Indenture for the Tearme of one and Twentie yeares from thence nexte followinge yealdinge and payinge therefore yearelie duringe the ſaide tearme vnto the ſaide Gyles Alleyne and Sara his wyfe fourteene pownd*es* of lawfull money of Englande In and by wch ſaide Indenture (amongeſt other Covenauntes and agreem^{t*es*} therin contayned) the ſaide James Burbage for him his heires executors and Adminiſtrators and for euerie of them did Cove-

naunte and graunte to and wth the ſaide Gyles Alleyne and Sara his wyfe their heires and aſſignees and eu*er*ie of them That he the ſaide James Burbage his executors or Aſſignees in Conſidera-*cio*n of the ſaide leaſe and Tearme of yeares and of certayne bricke tyle lead and other ſtuffe Cominge of other Tenem^t*es* men-coned in the ſaide Indenture) ſhould and would at his or their owne Coſtes and chardges w^th^in Tenne yeares nexte enſuinge the date of the ſaide Indenture ymploye and beſtowe in and vppon the buildinge alteringe and amendinge of certayne houſes and buildinges in and vppon the p*re*miſſes by the ſaide Indenture demiſed/ the ſome of Two hundred pownd*es* of lawfull money of Englande the value of ſoe muche of the ſaide oulde ſtuffe and tymber as ſhoulde be ymployed and beſtowed therabout*es* to be accompted parcell of the ſaide Two hundred pound*es* And the ſaide Gyles Alleyne and Sara his wyfe did therby Covenaunte and graunte to and wth the ſaide James Burbage his executors and Aſſignees that they the ſame Gyles Alleyne and Sara his wyfe or one of them or their heires or the heires of one of them ſhoulde and woulde at anie tyme or tymes w^th^in Tenne yeares next en-ſuinge the date of the ſaide Indenture at or vppon the lawfull requeſte or demaunde of the ſaide James Burbage his executors adminiſtrators or Aſſignes at his and their Coſtes and chardges in the lawe make or cauſe to be made to the ſaide James Burbage his executors or Aſſignees a newe leaſe or graunte like to the ſame p*re*ſent*es* of all the foreſaide gardein grownd*es* and ſoile and of all other thinges graunted by the ſaide Indenture for the tearme of one and Twentie yeares more to begynne and to take Com-encem^t^ from the daye of the makinge of the ſame leaſe yealdinge therfore the rente reſerved in the ſaide former Indenture And vnder ſuche like Covenaunt*es* and agreem^t*es*^ as are in the ſaide Indenture menc*i*oned and expreſſed (excepte this ſaide Cove-naunte for makinge a newe leaſe w^th^in Tenne yeares and the fore-ſaide Covenaunte for ymployinge the foreſaide fom*m*e of Two hundred pound*es* Aud farther the ſaide Gyles Alleyne and Sara his wyfe their heires executors and Adminiſtrators did therby Covenaunte and graunte to and wth the ſaide James Burbage his

executors and Affignees that it ſhoulde and mighte be lawfull to the ſaide James Burbage his executors or affignees (In conſideracion of the ymployinge and beſtowinge of the foreſaide Two hundred pounde*s* in forme aforeſaide) at anie tyme or tymes before the ende of the ſaide tearme of one and Twentie yeares by the ſaide Indenture graunted or before the ende of the foreſaide one and Twentie yeares after by vertue of the ſaide recited Covenaunte to be graunted to haue take downe and Carie awaye to his and their owne proper vſe for eue*r* all ſuche buildinges and other thinges as ſhould be builded erected or ſette vppe in or vppon the Gardeins and voyde grownde*s* by the ſaide Indenture graunted or anie pa*r*te therof by the ſaide James his executors or Affignees either for a Theator or playinge place or for anie other lawfull vſe for his or their comodities w^th^out anie ſtoppe clayme lette trouble or interrupcion of the ſaide Gyles Alleyne and Sara his wyfe or either of them or of the heires executors Adminiſtrators or Affignees of them or anie of them or of anie other pe*r*ſon or pe*r*ſonnes in the behalfe righte or title or by meanes or procurem^t^ of them or anie of them By vertue of wch Leaſe the ſaid James Burbage did enter into the premiſſs & was therof poſſeſſed accordinglie and did pe*r*forme all the Covena*n*te*s* Articles & agreem^te*s*^ on his pa*r*te to be pe*r*formed & did alſo to his great charge*s* erect and builde a playinge howſe called the Theater in & vpon the premiſſes & afterwarde the ſaide firſte tearme of Tenne yeares drawinge to an end the ſaide James Burbage did often tymes in gentle maner ſolicit & require the ſaid Giles Allen for makinge a new leaſe of the ſaid premiſſes accordinge to the purporte & effect of the ſaid Covena*n*te & tendred vnto the ſaid Allen A new Leaſe deviſed by his Cownſell readie written & engroſſed wth labells & wax thervnto affixed agreable to the Covena*n*te before recyted wch he the ſaid Allen made ſhew that he would deliuer yet by ſubtill deviſes & practiſes did from tyme to tyme ſhifte of the fyniſhinge therof After w^ch^ & before the ſaid terme of one & twentie yeares were expired the intreſt of the ſaid terme & all benefitt & profitt that might growe by the ſaid Indenture of Leaſe came by good conveyaunce in the Lawe

to yor ſaid Subiect by vertue wherof yor ſaid Subiect was therof poſſeſſed & being ſo poſſeſſed yor ſaid Subiect did often require the ſaid Allen and Sara his wife to make vnto him the ſaid new Leaſe of the premiſſs accordinge to the agreem^{t} in the ſaide Indenture wch the ſaide Gyles Alleyne woulde not denie but for ſom*m*e cauſes wch he feigned did differre the ſame from tyme to tyme but yet gaue hope to yor ſubiecte and affirmed that he woulde make him ſuche a leaſe By reaſon wherof yor ſubiecte did forbeare to pull downe and carie awaye the tymber and ſtuffe ymployed for the ſaid Theater and playinge houſe at the ende of the ſaide firſte tearme of one and Twentie yeares as by the directe Covenaunte and agreem^{te} expreſſed in the ſaide Indenture he mighte haue done But after the ſaide firſte tearme of one and Twentie yeares ended the ſaide Alleyne hathe ſuffred yor ſubiecte to contynue in poſſeſſion of the p*re*miſſes for diverſe yeares and hathe accepted the rente reſerved by the ſaide Indenture from yor ſubiecte Whervppon of late yor ſaide ſubiecte havinge occaſion to vſe certayne tymber and other ſtuffe wch weare ymploied in makinge and errectinge the ſaide Theator vppon the p*re*miſſes (beinge the cheefeſte proffitte that yor ſubiecte hoped for in the bargayne therof) did to that purpoſe by the Conſente and appointm^{te} of Ellen Burbadge Adminiſtratrix of the good*es* and Chattells of the ſaide James Burbage take downe and Carie awaye parte of the ſaid newe buildinge as by the true meaninge of the ſaide Indenture and Covenant*es* lawfull was for him to doe and the ſame did ymploye to other vſes. But nowe ſoe it is maye it pleaſe yor moſte excellent Matie that the ſaide Gyles Alleyne myndinge to take advantage of his owne wrongfull and vnconſcionable dealinge in not makinge the ſaide newe leaſe fyndinge the wordes of the ſaide Covenaunte to be that the ſaide James Burbage his executors Adminiſtrators or Aſſignees mighte before the end of the ſaide Tearme of one and Twentie yeares graunted by the ſaide Indenture or before the ende of the ſaide one and Twentie yeares after by vertue of the ſaide agreem^{t} to be graunted take downe and carie awaye the ſaide tymber and ſtuffe vſed for makinge of the ſaide Theator that therfore (in regarde yor ſub-

iecte truſtinge to his promiſes to haue a newe leaſe did not take the ſame awaye at the ende of the ſaide tearme of one and Twentie yeares graunted by the ſaide Indenture and that noe newe tearme beinge graunted by the ſaide Alleyne to the ſaide James Burbage or his Aſſignees by the wordes of the ſaide Covenante he hathe not libertie to take the ſame awaye afterwardes in ſtrictenes of lawe Therevppon he the ſaide Gyles Alleyne hathe broughte an Accion of Treſpas in yor Maties Courte at weſtm*inſter* Called the Queenes Benche againſte Peter Streete yor ſubiectes ſervaunte who by yor ſubiectes direction and Comaundem^t did enter vppon the p*re*miſſes and take downe the ſaide buildinge myndinge moſte vnconſcionablie to recou*er* the value of the ſaide buildinge in damages, wch muſte in [the] ende lighte vppon yor ſaide ſubiecte yf he ſhould therin p*re*vayle) And there dothe p*ro*ſecute the ſame wth all rigor and extremitie wch will tende to yor ſubiect*es* greate loſſe and hinderance excepte yor Maties favour and ayde in ſuche caſes vſed be to him herein extended In tender regarde wherof for as muche as it is agaynſte all equitie and Conſcience that the ſaid Gyles Alleyne ſhoulde (Contrarie to his Covenaunte and agreem^te aforeſaide throughe his owne wronge and breache of Covenaunte hinder yor ſubiecte to take the benefitte of the ſaide agreem^te in the foreſaide Indenture expreſſed to take awaye the ſaide tymber and buildinge*s* before the ende of the ſaide one and Thirtie yeares And for that yor ſaide ſubiecte or his ſervaunte can Myniſter noe p*er*fecte plea at the Com*m*on lawe in barre of the ſaide acc*i*on And yet in all equitie and Conſcience oughte to be releeved accordinge to the true meaninge And the ſaide Gyles Alleyne oughte to be ſtayed of his ſaide ſuite Maye it therefore pleaſe yor moſte excellente Matie the p*re*miſſes Conſidered/ to graunte vnto yor ſaide ſubiecte yor highenes writte of Privie Seale to be directed to the ſaide Gyles Alleyne Comaundinge him therby at a Certayne daye and vnder a certayne payne therin to be lymited to be and p*er*ſonallie to appeare before yor Matie in yor highenes Courte of white Halle at Weſtminſter then and there to aunſweare to the p*re*miſſes and to abide ſuche further order and direction therin As to the Maſters of the ſaide Courte ſhalbe

thoughte meete and Convenient And alſo to graunte yor Ma^{tles} moſte gratious writte of Iniunction to be directed to all the Counſellors Attorneys Solliciters and factors of the ſaide Alleyne, Comaundinge them to Ceaſe all proceedinge*s* in the ſaide Acc*i*on vntill the matter in equitie (wherein yor poore ſubiecte humblie prayeth to be releeued) be firſte hard before the Maſters of yor highnes ſaide Courte And yor poore ſubiecte will accordinge to his bounden duetie daylie praye to god for the p*re*ſervac*i*on of yor royall Matie in all healthe and happineſſe longe to reigne ou*er* vs.

[Signed] Jo: Walter [Attorney]

ANSWER

Quarto die ffebruarij
Anno Regni Regine
Elizabethe &c xlij°/

The anſwere of Giles Allen Gentl*eman* Defend^{t} to the Bill of Compl^{t} of Cuthbert Burbage Compl^{t}././

The ſaid Defend^{t} ſaieth that the ſaid Bill of Comp^{lt} againſt him exhibited into this Honourable Courte is in the materiall p*ar*tes therof verie vntrue, and is likewiſe (as the Defend^{t} by his Counſell is informed) verye vncertaine and inſufficient in the lawe to be anſwered vnto [by] the ſaid Defend^{t} for diuers and ſundrie apparaunt faultes and imp*er*fections therin Conteyned And deviſed and exhibited into this Honourable Courte of malice and evell will wthout any iuſt Cauſe conceyved againſte the ſaid Defend^{t} to the intent thereby vniuſtlie to vexe and moleſte him wth tedious trauell beinge an aged man and to putt him to great trouble and chardges and that without any iuſt Cauſe or good matter as the Defend^{t} hopeth it ſhall appeare vnto this Honourable Courte: Neverthleſſe yf by the order of this Honourable Court the ſaid Defend^{t} ſhalbe Compelled to make any further or other anſwere vnto the ſaid vntrue incertaine and inſufficient Bill of Comp^{lt} then and not otherwiſe (the advantage of exception therof to this Defend^{t} nowe and all times herafter ſaued) for further anſwere therevnto, and for a full and plaine Declarac*i*on of the

trueth The ſaid Defend^{t} ſaieth that true it is that he the ſaid Defend^{t} together wth Sara his wife did by their Indenture of leaſe bearinge Date the thirteenth daie of Aprill in the eighteenth yeare of her ma^{ties} Raigne that nowe is for and in Conſideracion of the ſomme of twentye powndes of lawfull money of England recited by the ſaid Indentures to be to them in hande at thenſealinge therof by the ſaid Jeames Burbage in the Bill of Comp^{lt} named truelye paid for and in the name of a fine or income amongſte other thinges did Demiſe vnto the ſaide Jeames Burbage all thoſe twoe howſes or tenementes with the appurtenances then beinge in the ſeuerall tenures or occupacions of Johane Harryſon widdowe and John Draggon: And alſoe all that howſe or tenemente with the appurtenances together with the gardeine grounde lyinge behinde parte of the ſame then beinge in thoccupacion of william Garnett gardiner. And alſoe all that houſe or tenemente with the appurtenances Called or knowne by the name of the mill houſe together with the gardeine grounde lyinge behinde parte of the ſame then beinge in the tenure or occupacion of Ewin Colefoxe weauer or of his aſſignes: And alſoe all thoſe three vpper Roomes with the appurtenances nexte adioyninge to the foreſaid Millhouſe then beinge in the occupacion of Thomas Dancaſter ſhoomaker or of his aſſignes: And alſoe all the nether Roomes with their appurtenances lyinge vnder the ſame th[r]ee vpper Roomes and nexte adioyninge alſoe to the foreſaid houſe or tenement Called the Myll howſe then beinge in the ſeuerall tenures or occupacions of Alice Dotridge widdowe and Richard Brackenburye or of their aſſignes together alſoe with the gardeine grounde lyinge behinde the ſame: And alſoe one great Barne with the appurtenances then beinge in the occupacions of Hughe Richardes inhoulder and Robert Stoughton Butcher (Excepte and reſerved to the ſaid Defend^{t} and Sara his wife and to their heires and aſſignes and to ſuch other perſone or perſones as then did or ſhould inhabite or make abode in the Capitall meſſuage or tenement there or any parte thereof then or late in the occupacion of the ſaid Defend^{t}, and to and for the tenantes of the ſaid Defend^{t} which did and ſhould dwell in Hollowell aforeſaid free libertie

to fetche and Drawe water at the well there from time to time Duringe the ſaid terme: To haue and to houlde all the ſaid howſes or tenementes, Barne gardeines groundes and all other thinges by the ſaid Indentures Demiſed (Excepte before excepted) vnto the ſaid Jeames Burbage his executors and aſſignes from the feaſt of Thannuncyacion of our Ladie laſte paſte before the Date of the ſaid Indentures vnto the full end and terme of twentie and one yeares from thence nexte and immeadiatelye followinge and fullie to be Compleate and ended Yealdinge and payinge therefore yearely Duringe the ſaid terme vnto the ſaid Defend^{t} and Sara his wife or to one of them and to the heires and aſſignes of the ſaid Defend^{t} and Sara fourteene powndes of lawefull money of England at foure feaſt*es* or tearmes in the yeare that is to ſaie at the feaſt*es* of the Natiuitye of St John Baptiſte, St Michaell Tharchangell the Birth of our Lord God and Thannuncyacion of our Ladie or within the ſpace of eight and twentye Daies nexte after eu*er*ye of the ſame feaſte Dayes by even porc*i*ons: And the ſaid Jeames Burbage for him his executo^{rs} adminiſtrato^{rs} and aſſignes did by the ſaid Indentures Coven*a*nte with the ſaid Defend^{t} and Sara his wife their heires and aſſignes that he the ſaid Jeames Burbage his executo^{rs} adminiſtrato^{rs} or aſſignes at his or their owne prop*er* Coſt*es* and Chardges the ſaide howſes or tenement*es* Barne gardeines and all other thinges by the ſaid Indentures Demiſed in all manner of needefull rep*ar*acions well and ſufficientlye ſhould repaire vphould ſuſteyne maintaine and amende from time to time when and ſoe often as need ſhould require and the ſame ſoe well and ſufficientlie repaired and amended in the end of the ſaid terme of one and twentye yeares ſhould leaue and yeald vppe. And the ſaid Defend^{t} and Sara his wife Did Covenante by the ſaid Indentures that it ſhould be lawefull for the ſaid Jeames Burbage his executo^{rs} adminiſtrato^{rs} and aſſignes or anie of them at anie time Duringe the firſte tenn yeares of the ſaid terme of one and twentie yeares to alter Chaunge remoue or take Downe anie of the howſes walles Barne or buildinges then ſtandinge and beinge in and vppon the p*re*miſſ*es* or anie p*ar*te therof and the ſame to make frame and ſett vpp into what forme or

faſhion for Dwellinge howſe or howſes it ſhould ſeeme good to the ſaid Jeames Burbage his executo^{rs} or aſſignes for the betteringe therof ſoe that the p*re*miſſ*es* Demiſed and the newe buildinges afterwardes to be made ſhould or might be reaſonablie from time to time ſett at a more value and greater rente then by the ſaid Indentures they were lett for Towardes the Doinge and finiſhinge wherof in forme aforeſaid the ſaid Defend^{t} and Sara his wife did Cove*n*ante with the ſaid Jeames Burbage his executo^{rs} adminiſtrato^{rs} and aſſignes by the ſaid Indentures that it ſhould be lawefull for the ſaid Jeames Burbage his executo^{rs} and aſſignes to haue and take to his and their owne prop*er* vſe and behoofe for euer all the timber tile bricke yron lead and all other ſtuffe whatſoeuer of the ſaid ould howſes or buildinges which ſhould come by reaſon therof. And further the ſaid Jeames Burbage for him his executo^{rs} adminiſtrato^{rs} and aſſignes did by the ſaid Indentures Cove*n*ante with the ſaid Defend^{t} and Sara that he the ſaid Jeames Burbage his executo^{rs} or aſſignes aſwell in Conſidera*c*ion of the ſaid leaſe and terme of yeares before by the ſaid Indentures graunted as alſoe for and in Conſidera*c*ion of all the timber bricke tile lead and all other ſtuffe comminge of the ſaid tenement*es* barne and all other the premiſſ*es* to be had and enioyed in forme aforeſaid ſhould and would at his and their owne Coſt*es* and Chardges wthin tenn yeares nexte enſuinge the Date of the ſaid Indentures imploie and beſtowe in and vppon the buildinge alteringe and mendinge of the ſaid howſes and building*es* for the betteringe therof as is aforeſaid to be made by the ſaid Jeames his executo^{rs} or aſſignes of in or vppon the premiſſ*es* the ſom*m*e of two hundred powndes of lawefull money of England at the leaſte: (The value of ſoe muche of the ſaid ould timber and ſtuffe as ſhould be imployed and beſtowed theraboutes to be accompted p*ar*cell of the ſaid ſom*m*e of twoe hundread powndes) and the ſame building*es* ſoe to be made ſhould at all times after the makinge therof at the Coſt*es* and Chardges of the ſaid Jeames his executo^{rs} and aſſignes repaire keepe make and maintaine from time to time as ofte as neede ſhould be Duringe the ſaid terme And all the ſaid meſſuages buildinges gardeines tenement*es* and

other the premiſſes and euerye parte therof ſufficientlie repaired made and amended in the ende of the ſaid terme ſhould leaue and yealde vppe. And it was further Condicioned by the ſaid Indentures that yf it ſhould happen the ſaid yearlie rent of fourteene pownds to be behinde vnpaied in parte or in all after or over anie feaſte Daie of paiment thereof at which the ſame rente ought to be paied by the ſpace of eight and twentie Daies beinge lawefullie aſked and noe ſufficient Diſtreſſe or Diſtreſſes in or vppon the ſaid premiſſes or anie parte therof for the ſaide Rente and the arrerages therof Could or might be founde; or yf the foreſaid ſomme of twoe hundred powndes ſhould not be imployed and beſtowed w^th^in the time and ſpace aforeſaid accordinge to the true meaninge of the ſaid Indentures that then it ſhould be lawefull for the Defend^t^ and Sara his wife and to the heires and aſſignes of the Defend^t^ into the ſaid howſes or tenementes Barne and all other thinges by the ſaide Indentures graunted to reenter: And furthermore the Defend^t^ and Sara his wife did Covenante with the ſaid Jeames Burbage his executo^rs^ and aſſignes by the ſaid Indentures That they the ſaid Defend^t^ and Sara his wife or one of them ſhould and would at anie time w^th^in tenn yeares next enſuinge the Date of the ſaid Indentures at and vppon the lawefull requeſt or Demaund of the ſaid Jeames Burbage his executo^rs^ adminiſtrato^rs^ or aſſignes at his and their Coſtes and Chardges in the lawe make or Cauſe to be made to the ſaid Jeames Burbage his executo^rs^ or aſſignes a newe leaſe or graunte like to the former of all the foreſaid howſes or tenementes Barne gardeines grownds or ſoile and of all other thinges by the ſaid Indentures graunted for the terme of one and twentie yeares to beginne and take Commencement from the daie of the makinge of the ſame leaſe ſoe to be made yealdinge therefore yearelie the foreſaid yearelie rente of fourteene powndes at the feaſtes before mencioned and vnder ſuche like Covenantes grauntes Condicions articles and agreementes as were in the ſaid Indentures mencioned and expreſſed and none other (Excepte the Covenante for makinge a newe leaſe within tenn Yeares and the Covenante for imployinge the foreſaid ſomme of twoe hun-

dred powndes: And further the Defend^{t} and Sara his wife did Covenante with the ſaid Jeames Burbage his executo^{rs} and aſſignes by the ſaid Indentures that it ſhould be lawefull to the ſaid Jeames Burbage his executo^{rs} or aſſignes in Conſideracion of the imployinge and beſtowinge of the foreſaid twoe hundred powndes in forme aforeſaid at anie time before the end of the ſaid terme of one and twentie yeares by the ſaid Indentures graunted or before the end of the foreſaid one and twentye yeares thereafter by vertue of the ſaid Indentures to be graunted to take downe and Carrie awaie to his and their owne proper vſe all ſuch buildinges and other thinges as ſhould be builded erected or ſett vpp in or vppon the gardeines and voide grounde by the ſaid Indentures graunted or anie parte therof by the ſaid Jeames his executo^{rs} or aſſignes either for a Theatre or playinge place or for anie other lawefull vſe for his or their Comodities (Excepte ſuche buildinges as ſhould be after made by vertue of the ſaid Indentures by reaſon of the imployinge and beſtowinge of the ſaid ſomme of twoe hundred powndes as the Comp^{lt} in his Bill of Comp^{lt} in parte hath alledged and as in and by the ſaid Indentures (wherevnto the Defend^{t} referreth himſelfe more fullie maie and doth appeare. And further the Defend^{t} ſaieth that true it is that the ſaid Jeames Burbage in the Bill of Comp^{lt} named did require the ſaid Defend^{t} to make him a newe leaſe and did tender vnto the Defend^{t} a Draught of a newe leaſe written and ingroſſed as the Compl^{t} hath alledged which leaſe ſoe tendered the Defend^{t} did not make ſhewe that he would deliuer it and yet did by ſubtille Deviſes ſhifte of the finiſhinge therof as the Comp^{lt} moſte vntruelye hath alledged: but Contrarielie the Defend^{t} did vppon manie and verye iuſt and reaſonable Cauſes and Conſiderac̃ions (as he hopeth it ſhall appeare vnto this Honourable Courte) vtterlie refuſe to ſeale and Deliuer the ſame for the plaine and true Declarac̃ion whereof firſte the Defend^{t} ſaith (that as he taketh it and as he is by his Counſell informed) the Draught of the ſaid leaſe ſoe tendered vnto the Defend^{t} was in manye materiall pointes varyinge and Differinge from the leaſe which the Defend^{t} and his Wife had formerlie made to the ſaid Jeames

Burbage and therefore in reſpect that the ſecond leaſe ſhould be made like vnto the former and vnder the like Covenantes articles and agreementes and noe other as before is ſhewed the Defendt was in noe wiſe (as he taketh it) either in lawe or Conſcience bounde to ſeale the ſame: ffor the further manifeſtacion of which variances the Defendt referreth himſelfe to the ſaid Indentures of leaſe and to the ſaid Draught of the newe leaſe which the Defendt ſhalbe alwaies readie to ſhewe forth to this Honorable Courte But yf ſoe it were that the Defendt had Contrarie to his Covenante refuſed to make the ſaid leaſe yet hath the ſaid Complt noe Cauſe (as the Defendt taketh it) to ſeeke releife in this Honourable Court for that the Complt hath diuers times ſaid vnto the Defendt that he hath in his handes a bonde wherin the ſaid Defendt is bounde vnto the ſaid Jeames Burbage in the fomme of twoe hundred powndes for the performance of the Covenantes in the ſaid Indentures vppon which the Complt hath threatened to ſue the ſaid Defendt at the Common lawe And further the Defendt ſaith that ſuch was the bad Dealinge of the ſaid Jeames Burbage towardes the Defendt from time to time before the time of the ſaid newe leaſe tendered and the ſaid Jeames Burbage had bene ſuch a troubleſome tenant vnto the Defendt that there was noe Cauſe in Conſcience to make the Defendt to yealde to anye thinge in fauour of the ſaid Jeames Burbage further then by the lawe he might be Compelled to doe: for firſte wheras the ſaid Jeames Burbage was bounde to paie vnto the Defendt the fomme of twentie powndes for a fine for the leaſe formerlie made vnto him, the ſaid Jeames Burbage neglected the paiment therof at the time appointed and longe time after And hardelie coulde the Defendt after muche Delaie and trouble by ſuite in lawe obteyne the ſame: And further the ſaid Jeames Burbage Continuallie failed in the paiment of his rent and never Duelie paid the ſame wherby the Defendt was often driven to his great trouble to goe aboute to Diſtreine for the ſame and yet could not the Defendt that waie helpe himſelfe for either the Dores and gates were kepte ſhutt that he could not enter to take anye Diſtreſſe or otherwiſe the matter ſoe

handled that the Defend^{t} could not finde anie ſufficient Diſtreſſe to ſatiſfie him for the arrerages therof and at the time of the ſaid newe leaſe tendered by the ſaid Jeames Burbage he the ſaid Jeames did then owe vnto the Defend^{t} thirtie powndes for the rent of the ſaid howſes and growndes Demiſed vnto him which as yet remayneth vnpaid notwthſtandinge that the ſaid Jeames Burbage in his life time and likewiſe the Comp^{lt} ſince his Death haue before Diuers Credible p*er*ſonnes as the Defend^{t} hopeth he ſhalbe able to proue often times Confeſſed the ſame to be due vnto the Defend^{t}. And further touchinge the repayringe of the howſes and buildinges which the ſaid Jeames Burbage ought to haue repaired and maintained that was likewiſe by the ſaid Jeames Burbage much neglected; for whereas amongſte the howſes and buildinge*s* Demiſed to the ſaid Jeames Burbage there was one great tiled Timber barne of foure ſcoare foote of aſſiſe in length and foure and twentie foote of aſſiſe in breadth or verie neare theraboutes verie ſubſtantiallye builte for the which the Defend^{t} had formerlie receiued a rent of good value the ſaid Jeames Burbage did devide the ſame into eleven ſeuerall tenementes (as the Defend^{t} nowe remembereth and did lett out the ſame ſeuerallie to poore p*er*ſonnes for the ſeue*r*all rentes of twentie ſhillinges by the yeare to be paid by eu*er*ye ten*a*nt whoe were and are vnable to doe anye Rep*ar*ac*i*ons vppon them; for ſuch was and nowe is their pou*er*tie that as the Def^{t} is informed they vſuallie begge in the feildes and ſtreet*es* to gett mony for the paiment of their rent*es* by reaſon wherof the Defend^{t} hath been muche blamed and by the p*ar*iſhoners there verie hardelie Cenſured that he ſhould be an occaſion to bringe ſoe many beggers amongſt them to their great trouble and annoyance which p*ro*ceeded not from any faulte of the Defend^{t} but from the Covetous humor of the ſaid Jeames Burbage whoe reſpected more his owne Com*m*oditie then the good reporte and Creditt either of the Defend^{t} or himſelfe and the like evell Diſpoſic*i*on appeareth to be in the Comp^{lt} whoe ſince the Death of his ffather hath Continued theſe poore people there and ſtill doth and yet Doth in noe wiſe repaire the ſaid tenement*es* wherby they are growen in great Decaye and

are almoſt vtterlie Ruynated and are nowe by the Compl^t^ vnder-propped with ſhores to keepe them from fallinge Downe in ſtead of Repairinge and amendinge the ſame as by the Covenante of the ſaid Jeames Burbage ought to be done inſoemuche that the ſaid poore people haue Complayned vnto the Defend^t^ that they were ſoe Decayed both without and within that they were in feare that they would fall vppon their heades wherbye it appearethe that the Compl^t^ hath ſmale regard either of the Creddit or the Commoditie of the Defend^t^ but ſeeketh onely to enriche himſelfe by the rentes and other proffittes which he vnconſcionablie receyueth for the ſame And the ſaid Jeames Burbage & the Compl^t^ or one of them haue likewiſe heretofore placed other poore people in other tenementes there which ſtill Continue in the ſame which tenements are by reaſon therof ſoe Decayed that the Defend^t^ ſeeth not howe he ſhall well be anſwered the ould rent of fourteene powndes of ſuche tenantes as be of abilitie to paie the ſame ſoe that howeſoeuer the Compl^t^ hath furniſed that by the ſaid twoe hundred powndes ſuppoſed to be beſtowed by the ſaid Jeames Burbage his father that the howſes and buildinges were greatlye amended and betterred (as in trueth they ought to haue been) yet the Defend^t^ taketh it that he ſhalbe able to make it appeare vnto this Honourable Court that they are rather impaired and in worſe plight for the benifitt and profitt of the Defend^t^ all thinges Conſidered then they were at the time when the ſaid Jeames Burbage firſt tooke them, neither yet in trueth had the ſaid Jeames Burbage at the time of the ſaid ſecond leaſe tendered or anie time after (as the Defend^t^ hopeth he ſhalbe able to proue to this Honourable Court) beſtowed the ſaid ſomme of twoe hundred powndes or neare thereaboutes for the betterringe of the howſes and buildinges demiſed neither was there anie likelyhood that the ſaid Jeames Burbage ſhould performe the ſame within the time limitted by the ſaid Indentures the ſaid ſecond leaſe beinge tendered but a verie ſhort time before the expiracion of the ſaid terme of tenn yeares w^th^in which time the ſaid ſomme of twoe hundred powndes ſhould haue been beſtowed as before is ſhewed for all which Cauſes the Defend^t^ did refuſe to ſeale the

ſaid leaſe (as he thinketh he had iuſte Cauſe both in lawe and Conſcience ſoe to Doe:) and afterwardes a little before the Death of the ſaid Jeames Burbage thoroughe great labour and entreatie of the ſaid Jeames Burbage and the Comp^lt and other their ffreindes whoe often moued the Defend^t in their behalfe and the ſaid Jeames Burbage pretendinge and makinge ſhewe vnto the Defend^t with manie faire ſpeeches and proteſtacions that he woulde therafter Duely paie his rent and repaire the howſes and buildinges and p*er*forme all his Coven*a*nt*es* as a good and an honeſt ten*a*nt ought to doe and that he would likewiſe paie the ſaid arrerages of thirtye powndes: the Defend^t and the ſaid Jeames Burbage grewe to a newe agreement that the ſaid Jeames Burbage ſhould haue a newe leaſe of the p*re*miſſ*es* Conteyned in the former leaſe for the terme of one and twenty yeares to beginne after the ende and expirac*i*on of the former leaſe for the yearelie rent of foure and twentie powndes, for the ſaid Jeames Burbage in reſpect of the great proffitt and Com*m*oditie which he had made and in time then to come was further likelye to make of the Theatre and the other buildinges and growndes to him Demiſed was verye willinge to paie tenn powndes yearelye rent more then formerlie he paid: And it was likewiſe further agreed betweene them (as the Defend^t hopeth he ſhall ſufficientlie proue) that the ſaid Theatre ſhould Continue for a playinge place for the ſpace of fiue yeares onelie (after the expirac*i*on of the firſt terme) and not longer by reaſon that the Defend^t ſawe that many inconvenienc*es* and abuſes did growe therby and that after the ſaid fiue yeares ended it ſhould be Converted by the ſaid Jeames Burbage and the Comp^lt or one of them to ſome other vſe and be imployed vppon the groundes Demiſed wherbye the benifitt and p*r*ofitt therof after the terme of the ſaied James Burbage ended ſhould remaine and be vnto the Defend^t: but before that agreement was p*er*fitted (by reaſon that the ſaid Jeames Burbage had not p*r*ocured ſuch ſecurytie for the p*er*formance of his Covenan*t*es as the Defend^t did require) the ſaid Jeames Burbage Dyed: after whoſe Death the Comp^lt did againe often moue and intreat the Defend^t that he might haue a newe leaſe of the

p*re*miſſ*es* accordinge to the former agreement made betweene the ſaid Jeames Burbage the father of the Comp^lt^ and the Defend^t^, the ſaid Comp^lt^ p*ro*miſinge the Defend^t^ the paiment of the ſaid thirtie powndes rente which was behinde in the time of the Comp^ltes^ father and that he would put in good ſecuritie to the Defend^t^ for the paiment of the Rente Duringe the terme and the repayringe of the howſes and the p*er*formance of all other Cove-n*an*t*es* on his p*ar*te to be p*er*formed touchinge which matter there was often times Com*m*unicacion had betweene the Comp^lt^ and the Defend^t^ whoe for his p*ar*te was Contented to haue made the ſaid leaſe vnto the Comp^lt^ whoe likewiſe ſeemed veerye willinge to haue it in ſuch manner and vnder ſuch Covena*n*t*es* as were formerlie agreed vppon betweene the Defend^t^ and the ſaid Jeames Burbage and ſoe the matter was at the laſte Concluded betweene the Comp^lt^ and the Defend^t^ and (as the Defend^t^ remembereth) a leaſe was Drawen accordinglie by the Comp^lt^ which the Defend^t^ thinketh he can ſhewe forthe vnto this Honourable Courte and yet notw^thſtandinge the Comp^lt^ founde meanes by Colourable ſhiftes and Delaies to Deferre the accompliſhinge and execution therof from time to time Howebeit the Defend^t^ hopinge that the Comp^lt^ had meant honeſtlie and faithfullie and to haue taken the leaſe accordinge to their agreement wherby the Defend^t^ ſhould haue receiued the ſaid arrerages of thirtie powndes and likewiſe that his howſes and building*es* ſhould haue been repaired and that he ſhould haue been ſecured for the p*er*formance of the Covena*n*t*es* ſoe that he ſhould not haue had ſuch trouble and Diſquiettneſſe as formerlie he had founde Herevppon the Defend^t^ was Contented to ſuffer the Comp^lt^ to enioye the premiſſ*es* after the firſt leaſe expired for the ſpace of a yeare or two payinge onelie the ould rent of fourteene powndes which the Defend^t^ did the rather by reaſon that the ſaid Jeames Burbage and the Compl^t^ betweene them had placed ſoe manie pore people there whoe were not able to paie their rent*es* that yf the Defend^t^ ſhould haue taken the ſame into his handes he ſhould haue beene Conſtreyned in pittye and Compaſſion to haue forborne their rent*es* to his great loſſe and hinderance; And further ſhould haue beene enforced within

a ſhorte time to haue turned them out of the poſſeſſion of the ſaid tenements by reaſon that they were ſoe greatlye Decayed that the Defend^{t} muſt haue beene enforced to pull them Downe and to erecte them a newe for otherwiſe they Could not nor can not be Convenientlie repaired for good and able ten*antes* But nowe by the Dealinge of the Comp^{lt} it appeareth that he never in trueth meant to take the leaſe as he pretended but onelie ſought to take occaſion when he might privelie and for his beſt advantage pull downe the ſaid Theatre wch aboute the feaſt of the Natiuitie of our Lord God in the fourtith yeare of her ma^{ties} Raigne he hath Cauſed to be done without the privitie or Conſent of the Defend^{t} he beinge then in the Countrie for the which the ſaid Defend^{t} hath brought an action of Treſpas in her ma^{ties} Benche againſt him whoe by the Com*m*andement of the Comp^{lt} was the Doer therof which action the Defend^{t} thinketh he had verie good and iuſte cauſe both in lawe and Conſcience to proſecute: for firſt it appeareth that the libertie which the ſaid Jeames Burbage had by the ſaid leaſe to pull downe the ſaid Theatre at anie time Duringe the terme was graunted vnto him in Conſideracion onelie of the ſaid ſom*m*e of twoe hundred powndes to be imployed and beſtowed by the ſaid Jeames Burbage vppon the howſes and buildinges that were demiſed vnto him: which som*m*e not beinge by him beſtowed accordinglie and other Coven*antes* broken there was noe Colour (as the Defend^{t} taketh it) either in lawe or Conſcience for the Comp^{lt} to take awaie the ſame: And further the Defend^{t} could not ſee by what meanes he ſhould receiue anie ſatiſfaction for the ſaid thirtie powndes of rent due vnto him and for the loſſe wch the Defend^{t} hath ſuſteyned by the not repayringe of his howſes wch amounteth to a verie great value but onelie by the ſaid Theatre wch the Defend^{t} intended to Convert to his vſe and therby to be recompenſed for the ſame ſeeinge himſelfe otherwiſe lefte wthout remedie by reaſon that the wife of the ſaid Jeames Burbage whome the Comp^{lt} ſuppoſeth to be his adminiſtratrix is neither willinge nor able for ought the Defend^{t} can p*er*ceiue to yeald him any ſatiſfaction at all; for the ſaid Comp^{lt} hauinge (as the Defend^{t} is informed) gotten all or the

greateſt p*ar*te of the good*es* and ſubſtance of the ſaid Jeames Burbage into his handes and the ſaid Ellen Burbage the late wife of the ſaid Jeames Burbage beinge a poore woman the Defend^{t} [sic] verie ſubtillye Cauſed her to take the adminiſtrac*i*on of the good*es* of the ſaid Jeames Burbage to the intent that therbie and by Colour of the ſaid adminiſtrac*i*on they might trouble and moleſt the Defend^{t} and others and yet themſelues avoid the paiment of the Debt*es* of the ſaid Jeames Burbage and the p*er*formance of ſuch Coven*an*t*es* and other Dueties as the ſaid Jeames Burbage and his execut*ors* or adminiſtrato^{rs} ought both in lawe and Conſcience to paie and p*er*forme vnto the Defend^{t} and others: And further wheras the Comp^{lt} ſuppoſeth that the ſaid Jeames Burbage his father did to his great Chardges erecte the ſaid Theatre and therby pretendeth that there ſhould be the greater Cauſe in equitie to releiue him the Comp^{lt} for the ſame: Herevnto the Defend^{t} ſaieth that Conſideringe the great proffitt and beniffitt which the ſaid Jeames Burbage and the Comp^{lt} in their ſeu*er*all times haue made therof w^{ch} (as the Defend^{t} hath Crediblie hard) doth amounte to the ſom*m*e of twoe thouſand pownd*es* at the leaſt: the Defend^{t} taketh it they haue been verie ſufficientlye recompenſed for their Chardges which they haue beſtowed vppon the ſaid Theatre or vppon anie other building*es* there had they been much greater then they were And further the Defend^{t} ſaieth that he hath Crediblie heard that the ſaid Theatre was not built at the alone Chardges of the ſaid Jeames Burbage but that one John Braines did defraie the greateſt p*ar*te of the Chardges therof vppon agreement made (as the Defend^{t} hath heard) betweene the ſaid Jeames Burbage and the ſaid John Braines that the ſaid John Braines ſhould haue the moyetie of the leaſe and of the p*ro*fitt*es* therof wch becauſe he the ſaid John Braines did not enioye accordinglie but was therin Defrauded by the ſaid Jeames Burbage (as the Defend^{t} hath heard) one Robert Miles as executo^{r} to the executo^{r} of the ſaid John Braines did exhibite a Bill into her ma^{ties} highe Courte of Chauncerie againſt the Comp^{lt} and the ſaid Jeames Burbage (as the Defend^{t} taketh it) wch ſuite Dependinge the ſaid Comp^{lt} ſubtillie intendinge to Defraude both

the ſaid Robert Miles and the Defend^{t} pulled downe the ſaid Theatre in great Contempt of the ſaid Honourable Court and to the great wronge and iniurye of the Defend^{t}, the ſaid Comp^{lt} (as the Defend^{t} taketh it) neither yet the ſaid Ellen Burbage hauinge noe Colour either in lawe or Conſcience ſoe to doe. wthout that y^{t} the ſaid Jeames Burbage did p*er*forme all the articles Coven*an*t*es* and agreement*es* on his p*ar*te to be p*er*formed or that he the ſaid Jeames Burbage onely did to his great Chardges erecte the ſaid Theatre in manner and forme as in the Bill of Comp^{lt} is alledged: and wthout that y^{t} the intereſt of the ſaid terme & all benifitt and proffitt that might growe by the ſaid Indentures of leaſe did by good Conveyance Come vnto the Comp^{lt}, or that he was lawefullie poſſeſſed therof by force of any ſuch Conveyance made vnto him: and without that y^{t} the Comp^{lt} did often require the Defend^{t} and Sara his wife to make him the ſaid newe leaſe in any other manner and fort then the Defend^{t} hath in his anſwere formerlie ſhewed: and wthout that y^{t} the Defend^{t} for any fayned Cauſe did Deferre the makinge of the ſaid leaſe from time to time as the Comp^{lt} moſt vntruelie hath alledged: And wthout that y^{t} the ſaid Ellen Burbage is the lawefull adminiſtratrix of the good*es* and Chattells of the ſaid Jeames Burbage, or that the ſaid Ellen Burbage did Conſent and appointe that the Compl^{t} ſhould pull downe the ſaid Theatre or that by vertue therof (yf ſoe it were) the Comp^{lt} might lawefullie pull downe the ſame: And wthout that y^{t} the Defend^{t} mindeth to take anie advantage of his owne wrongefull and vnconſcionable Dealing*es* as the Compl^{t} moſt vntruelye hath furniſed for the Defend^{t} hopeth that it ſhall well appeare vnto this Honourable Court that the Dealing*es* of the Defend^{t} herein haue been verie iuſte and honeſt and accordinge to good Conſcience. And wthout y^{t} that anie other matter or thinge in the ſaid Bill of Compl^{t} Conteyned materiall or effectuall in the lawe to be anſwered vnto by this Defend^{t} and not herein ſufficientlie anſwered vnto Confeſſed and avoyded, trauerſed, or denied is true, all which matters this Defend^{t} is readie to averre and proue as this Honourable Courte ſhall award And therfore prayeth to be Diſmiſſed therof with

his reaſonable Coſt*es* and Chardges in this behalfe allreadie wrongefullie had and ſuſteyned./

[Signed] Chiborne [Attorney].

REPLICATION

xxvij° die Aprilis
Anno R*egni* Reg*ine*
Elizabethe xlij°

The Replicac*i*on of Cuthbert Burbadge Compl^te^
to the aunſwer of Gyles Allen gentleman Defend^t^

The ſaide Compl^te^ ſavinge to himſelf nowe and at all times hereafter all advantages of excepc*i*on to thincertayntie & inſufficiencie of the ſaide anſweare for replicacon ſayeth as he before in his ſaide bill of Compl^te^ hathe ſaide and dothe and will averre maynteyne & proue & euerye matter and thinge in his ſayd bill conteyned to be good iuſt and true in ſuch ſorte mann*er* and forme as therein they are moſt truely ſett fourth and Declared w^th^out that that the draught of the ſayde leas tendred by the ſayde James Burbage to the ſayde Defend^t^ in the ſayde bill and anſwer mencyoned was in any materiall pointe varyinge or differinge from the leas wch the ſayd Defend^t^ & his wyfe formerlye made to the ſayde James Burbage as in the ſayde aunſweare is ſurmiſed, w^th^out that that the ſayd James Burbage did deale badlye wth the Defend^t^ before the tendringe of the ſayd newe leas or that he the ſayd James was ſuch a troubleſome tenant to the ſaid Def^t^t that there was noe cauſe in conſcience to move the ſayde Defend^t^ to yeild to any thinge in favour of the ſayd James further then by lawe he might be compelled to doe as in the ſayd Aunſweare is moſt vntruely alleaged w^th^out that that the ſayd James Burbage contynuallye fayled in the payment of his rent, and never duely payd the ſame or y^t^ he the ſayd Defend^t^ was often Driven to goe about to diſtreine for the ſame, or that the doores & gates of the houſe of the ſayd James Burbage were kept ſhutte that the Defend^t^ could not enter to take any diſtres or that the ſayde Def^t^ could not finde ſufficiente diſtreſſe to ſatiſfie him for the arrerages

of the rent (if any were) as in the ſaid Anſwer ys ſuggeſted and as towching[e] the ſaid thirtie pound*es* in the ſaid anſwere mencio*n*ed alledged to be dew to the ſaid defend[t] for the rent of the howſes and ground*es* demiſed to the ſaid James Burbage in the ſaid Anſwere ſpecified this comp[lt] therevnto ſaieth That longe before the tenderinge of the ſaid newe leaſe in the anſwere ſpecified there was muche variaunce and Controu*er*ſie betwene the ſaid defend[t] and one Edmond Peckham towching[e] the title of the p*re*miſſes in the ſaid anſwere mencioned, by reaſon whereof the ſaid James Burbadg[e] this Comp.[lt*es*] father was verie muche trowbled and often Chardged to finde men to keepe the poſſeſſion of the ſaid p*re*miſſes from the ſaid Edmond Peckham neyther could this Comp[lt*es*] ſaid father enioye the ſaid p*re*miſſes according[e] to the leaſe to him made by the ſaid defend[t]; for w[ch] Cauſes (if any p*ar*te of the rent were vnpaide yt may be this Comp[lt*es*] ſaid father deteyned ſome p*ar*te of the rent in his owne hand*es* and dyd not pay the ſame at the daies lymitted for paym[t] thereof, the Certentye of w[ch] ſaid rent ſoe deteyned he this comp[lt] knoweth not W[th]out that that the ſaid James Burbadg[e] at the tyme of the ſaid new leaſe tendered dyd owe vnto the ſaid defend[t] thirtie pound*es* for rent of the ſaid howſes and ground*es* Or that this Comp[lt] dyd often tymes confeſſe ſince the deathe of the ſaid James Burbadg[e] the ſame to be dewe to the ſaid defend[t] as in the ſaid anſwere ys vntruly alledged. Howbeit this Comp[lt] ſaieth that he this comp[lt] hath told the ſaid defend[t] that if the ſaid Defend[t] would vſe him kindly and deale frendly wth him that then he this Comp[lt] for quietnes & frindſhippe to be had would ſatiſfie the ſaide defend[te] all ſuche rent as the ſaide defend[te] coulde reaſonablie demaunde And wheras the ſaide defend[t] alleadgeth in his ſaide aunſwer that the ſaide James Burbadge neglected to doe Rep*ar*acio*n*s vppon the ſaide houſes and buildinges and that the ſaide James did devide the ſaide barne in the aunſwer ſpecified into eleven ſeu*er*all tenem[t*es*] and did lette the ſame ſeu*er*allie to poore p*er*ſonnes for the ſeu*er*all rent*es* of Twentie ſhilling*es* by yeare who weare vnable to doe rep*ar*acio*n*s vppon the ſame This Compl[te] thervnto replieth and ſayth that true it is that the ſaide Jam*es* Burbadge

being poſſeſſed amongeſt other thinges of the ſaide barne by vertue of the leas to him made as aforeſaid wch barne ſtood & laye emptie alonge time in the handes of the [sic] him the ſaide James w^th^out yeldinge him anie *pro*fitte or com*mo*ditie And the ſaide James being deſirous to converte the ſame for his benefitte did therfore to his greate charges devide the ſame barne into ſeu*er*all tenem^t*es*^ as in the bill is expreſſed as lawfull was for him the ſaide James ſoe to doe as he this Compl^te^ taketh it And ſoe muche the rather for that he the ſaide James was not reſtrayned by his ſaide leas to builde or to converte anie p*ar*te of the p*re*miſſes to him demiſed therbie And this Compl^te^ further ſaieth that he this Compl^te^ verie well knoweth and can well and ſufficientlie p*ro*ve and make manifeſte to this honorable Courte, that the ſaide James Burbadge hath for diu*er*ſe yeares duringe the ſaide tearme beſtowed & diſburſed in & aboutes the rep*ar*ac*i*ons of the ſame tenem^t*es*^ a greate ſome of money W^th^out that that the ſaide tenants are ſoe poore that theie vſuallie begge in the fieldes and ſtreates to gette money for the paym^te^ of theire rent*es*, Or that that there weare anie cauſe the ſaide defend^te^ ſhoulde be muche blamed or hardlie cenſured by the p*ar*iſhoners Or that the ſaide James reſpected more his owne comoditie then the good reporte and creditte of the defend^te^ or himſelfe as in the ſaide aunſwer moſte ſlanderouſlie is alleadged w^th^out that alſo that he this Compl^te^ hathe not ſince the deathe of his ſaide father repayred the ſaide tenem^ts^ or that the ſaide tenem^t*es*^ are growen in greate decaie or almoſte vtterlie ruinated or that there is anie cauſe that the ſaide poore people ſhoulde complayne to the ſaide defend^t^ that the ſaide tenem^t*es*^ would fall vppon theire heades as in the ſaide aunſwer is vntrulie furmiſed ffor this Compl^te^ ſaieth and can vearie well proue that he this Comp^lte^ hathe beſtowed and diſburſed in repayringe of the ſame tenem^t*es*^ this vearie laſte yeare the ſome of twentie Markes and better W^th^out that that the ſaide James Burbadge had not at the time of the ſaide ſeconde leas tendered or anie time after beſtowed the ſom*m*e of two hundred powndes or neare theraboutes for the betteringe of the houſes and buildinges demiſed Or that there was not anie likelihood that the ſaide

James Burbadge ſhoulde p*er*forme the ſame wthin the time lymitted by the ſaide Indentures as in the ſaide aunſweare is alſo ſurmiſed ffor this Complaynante ſaieth and can well and ſufficientlie p*ro*ve and make manifeſte aſwell by diuers good workemen and other p*er*ſonnes that the ſaide James Burbadge before the tenderinge of the ſaide ſeconde leas to the ſaide defend^{t} did beſtowe and diſburſe for the betteringe of the ſaide houſes and buildinges aboue the ſom*m*e of Two hundred powndes And therfore he the ſaide defend^{te} had noe iuſte cauſe to refuſe to ſeale the ſaide leas as by his ſaide aunſwer he pretendeth And touchinge the newe agreem^{te} between the defend^{te} and the ſaide James Burbadge in the ſaide aunſweare ſpecified he this Complaynante therevnto ſayeth That true it is that the ſaid James Burbage was verie willinge to haue a newe leas for one & twentie yeares of the p*re*miſſes from the ſaid Def^{t} vnder ſuch rent, & accordinge to ſuch reaſonable Covenaunt*es* as in the former leas were conteyned, And that therevppon ſpeeches & commvnicac*i*on were often had & paſſed betweene the Def^{t}. and the ſayd James towchinge the ſame, but this Compl^{t} ſayeth that the ſayde Def^{t} accordinge to his owne will and direction did cauſe a draughte of a leas to be drawen wherin were inſerted many vnreaſonable Covenant*es* and agreem^{tes} on the parte of the ſaide James to be performed, And likewiſe the ſaid Defend^{t} required ſuche ſecuritie of the ſaide James Burbadge for the performaunce thereof, as that the ſaid James vtterlie refuſed to proceade any further wth the ſaid Defend^{t} in the ſaid bargaine And the ſaid James Burbage wthin ſhorte tyme after died. Without that that the ſaid James Burbadge was willinge to paie the ſaid defend^{t} Tenne pound*es* yerelie rent more then formerlie he paid Or that it was agreed betwene the defend^{t} and the ſaid James that the ſaid Theater ſhoulde Contynue for A playinge place for the ſpace of ffyve yeres onelie after the firſte terme and no longer, Or that the ſame after the ſaid ffyve yeres ended ſhould be Converted by the ſaid James and this Compl*ainant* or one of them to ſome other vſe and be ymploied vppon the ground*es* demiſed wherebie the benefitt and proffitt thereof after that terme ended ſhould remayne and be vnto

the ſaide defend^{t} as in the ſaid Anſweare is alſo ſ*ur*miſed and alleadged. Without that that this Compl*ainant* did often moue or intreate the ſaide defend^{t} that he mighte haue a newe leas of the p*re*miſſes accordinge to the former ſuppoſed agreem^{t} made betwene the ſaid James Burbadge and the def^{t} Or that this Compl*ainant* did p*ro*miſe to paie vnto the ſaide Def^{t} the ſaid ſom*m*e of xxx^{li} in the ſaid Anſweare menc*i*oned Or that this Compl*ainant* ſeemed verie willinge to haue the ſaid leas in ſuche mann*er* and vnder ſuche Covenaunt*es* as were formerlie ſuppoſed to be agreed vppon betwene the defend^{t} and the ſaid James Burbadge, or that the matter was ſo Concluded betwene this Compl*ainant* and the ſaide defend^{t} Or that that there was A leaſe drawen accordinglie by this Compl*ainant* Or that the ſaid def^{t} was Contented to ſuffer this Compl*ainant* to enioye the p*re*miſſes after the firſte leas expired for the ſpace of A yere or twoo payinge onelie the olde rente of xiiij^{li} for ſuche reaſons & in ſuch manner as in the ſaid Anſwere moſte vntrulie is ſuggested and ſuppoſed/. Withoute that alſo that this Compl*ainant* neuer meante to take the leas of the p*re*miſſes but onelie ſoughte to take occaſion when he mighte privilie and for his beſte advauntage pull downe the ſaid Theatre ffor this Compl*ainant* ſaieth that he was verie willinge to haue had a newe leas of the ſaid p*re*miſſes from the Defend^{t} ſo as the ſame leas mighte haue been made in ſuche reaſonable manner and accordinge to the former leas made by the Defend^{t} and his wief to this Comp^{ltes} father as aforeſaid. And this Compl*ainant* doth not denie but that he hath pulled downe the ſaid Theatre wch this Compl*ainant* taketh it was lawfull for him ſo to do beinge A thinge Couenaunted and p*er*mitted in the ſaid former leas to this Comp^{ltes} ſaid father made as aforeſaid Withoute that that this Compl*ainant* hath gotten moſte parte of the ſubſtaunce and good*es* of the ſaid James Burbadge into his owne handes, or hath ſubtillie cauſed the ſaid Ellen Burbadge to take the admi*ni*ſtrac*i*on of the goodes of the ſaid James Burbadg therebie to trouble and moleſte the ſaid Defend^{t} and others and themſelues to avoide the paym^{t} of the debt*es* of the ſaide James Burbadge and the performaunce of ſuche Couenaunt*es* and other

dueties as the ſaid James Burbadg[e] his executo[rs] or admi*ni*ſtrato[rs] ought both in lawe and Conſcience to paie and performe vnto the defend[t] and others, Or that the ſaid James Burbadge or this Complayn[t] hathe made twoo thouſand pound*es* proffitt and benefitt by the ſaid theatre As in the ſaid Anſweare is alſo alleadged And w[th]out that that any other matter Clauſe Article or thinge in the ſaid Anſweare Conteyned materiall or effectuall in the lawe to be replied vnto by this Compl*ainant,* and not herein or hereby ſufficiently replied vnto Confeſſed and avoided trau*er*ſed or denied is trewe, All w[ch] matters he this Compl*ainant* is and will be readie to averr and proue as this honorable Courte ſhall award And praieth as before in and by his ſaid bill of Compl[t] he hath praied/

COURT ORDER, 10 APRIL 1600

Requests Misc. Books, vol. 49. (*Draft Order Book, Easter 41 to Trinity 42 Elizabeth*)

Termino Paſche Anno Regni R[ne]
Eliz*abeth* &c xlij[do]

Decimo die Aprilis [1600]

Cuthbert Burbage gent*leman* compl[t] againſte Giles Allen gent*leman* defendaunt yt is Ordered vppon the moc*i*on of m[r] Walter of counſaill w[th] the ſaid compl[t] that an Iniunc*c*ion (w[th]out further moc*i*on in that behalf to be made) ſhalbe Awarded furthe of this corte againſte the ſaid def[t] for the ſtay of his p*ro*ceedinge*s* at the co*mm*en lawe in the Acc*i*on of treſ*pas* theare dependinge, vntill this corte ſhall take further Order to the contrary, yf he the ſaid defendaunt (havinge notice of this Order in convenyent tyme) ſhall not vppon thurſday next com*m*ynge ſhewe good matter in this corte in ſtay thereof/

COURT ORDER, 22 APRIL, 1600

Idem, ap. loc.

xxij[do] die Aprilis

Wheareas in the cauſe at the ſute of Cuthbert Burbage gent*leman*

compl^t^ againſte Giles Allen gent*leman* defend^t^ Order was p*ro*nounced vppon the xvij^th^ of this inſtant that bothe p*ar*ties wth their counſaill ſhould Attend vppon this p*re*ſent day to be heard whether An Iniunccion ſhould be in the ſame cauſe Awarded or not, At wch day m^r^ Walter and one Chiborne beinge ſeue*r*allye of counſaill learned wth bothe the ſaid p*ar*ties Attended Accordingly, And therevppon (the matter in queſtion beinge opened vnto her ma^tes^ counſaill in this corte) yt is by the ſame counſail ordered that the plaintif ſhall furthw^th^ reply, And that bothe the ſaid p*ar*ties ſhall examyn all ſuche witneſſes as they entende to vſe in this cauſe by or before the ſeconde day of the next terme, And then publicac*i*on ſhalbe therein graunted, And the ſame matter ſhalbe heard in this corte vppon the xj^th^ day of the ſame next terme p*er*emptorilie, And further yt ys Ordered that the ſaid compl^t^ (Accordinge to thoffer of his counſaill this day made) ſhall by or before monday next comynge put in A p*er*fect and yffuable plea to the def^tes^ acc*i*on dependinge at the co*mm*en lawe, or els in default therof ſhall take no benefit by his ſute in this corte, wch plea (yf yt ſhalbe put in Accordingly), then the def^tes^ counſaill dothe conſent, and yt is ſo ordered that he the ſaid def^t^ ſhall ſtay his further p*ro*ceeding*es* at the co*mm*en lawe, vntill the matter be heard Accordinge to this Order/

BURBAGE *v.* ALLEN

Court of Requests Proceedings, Uncalendared, Bdl. 242. Depositions ex parte Allen, 26 April, 1600.

INTERROGATORIES

[In dorso]
Ter*mi*no Paſch*e*
xlij *Regni* Reg*i*ne
Eliz*abethe*

Interrogatoryes to be miniſtred to the Witneſſes to be p*ro*duced on the p*ar*te and behalfe of Giles Allen gentl*eman* Defend^t^ againſte Cuthbert Burbage Complain*ant*e./

1./ Imprimis whether did Jeames Burbage father of the Complain-*ant*e in his life time tender and Deliuer vnto the Defend^{t} a Draught of a newe leaſe of Certaine howſes and groundes which were formerlye Demiſed by the Defend^{t} to the ſaid Jeames Burbage requiringe the Defend^{t} to ſeale the ſame: and whether is the Draught nowe ſhewed forth vnto you, the ſame which the ſaid Jeames Burbage Deliu*er*ed vnto the Defend^{t}: And whether did not the Defend^{t} refuſe to ſeale the ſame; and for what Cauſe to yor rememberance did he ſoe refuſe the ſealinge therof?/ Deliuer what yowe knowe or haue heard herin.

2./ It*em* whether was not the Defend^{t} bound vnto the ſaid Jeames Burbage in the ſom*m*e of twoe hundred powndes for the p*er*formance of Covenant*es* Conteyned in the ſaid leaſe made by the Def^{t} to the ſaid Jeames Burbage: and whether hath not the Comp^{lte} ſaid that he hath the ſaid bond in his Cuſtodye: and whether hath not the Comp^{lte} of late threatened to ſue the Defend^{t} or to Cauſe him to be ſued vpon that bonde; Deliuer what you knowe or haue heard herein./

3./ It*em* whether did not the ſaid Jeames Burbage at the time of his Death owe vnto the Defend^{t} the ſom*m*e of thirtye powndes for rent of the ſaid howſes and groundes Demiſed vnto him by the Defend^{t}: and whether doth not the ſaid ſom*m*e of thirtye powndes Remaine yet vnpaid: and whether hath not the Comp^{lte} of late Confeſſed the ſaid ſom*m*e of thirtye pownde*s* to be Due vnto the Defend^{t}: Deliuer what you knowe, or haue Crediblie heard herein./

4./ It*em* whether doe you knowe or thinke in yor Conſcience that the ſaid Jeames Burbage did within the firſte tenn yeares after the ſayd leaſe made vnto him by the Defend^{t} beſtowe the ſom*m*e of twoe hundred powndes aboute the alteringe and amendinge of the ſaid howſes and buildinges Demiſed vnto him by the Defend^{t}: or what ſom*m*e of money did the ſaid Jeames Burbage beſtowe to that purpoſe wthin that time: Deliuer the trueth what you knowe or haue Crediblie heard herein?/

5./ Item whether Did the ſaid Jeames Burbage Duringe his life keepe the ſaid howſes and buildinges in good reparacions: and whether are not the ſaid howſes and buildinges or ſome of them nowe growen in great Decaie: and whether hath not the Compl^te^ vnderpropped them with ſhores: and whether doe they not ſoe remaine: and what ſomme of money will it Coſte to ſett the ſaid howſes and buildinges in good and ſufficient Reparacions Deliuer what you knowe or thinke in yor Conſcience hearein: and by what meanes as you thinke it is come to paſſe that the ſaid howſes and buildinges are growen ſoe ruinous./

6./ Item whether was there not an agreament had betweene the Compl^te^ and the Defend^t^ to this effecte: that the Defend^t^ ſhould make a newe leaſe of the ſaid howſes and grounds vnto the Compl^te^ for one and twentye yeares from and after the expiracion of the former leaſe made to the ſaid Jeames Burbage: and that the Compl^te^ ſhould paie yearelye for the ſame the ſomme of foure and twentye powndes: And whether was it not likewiſe agreed betweene them that the Theatre wch was erected vppon parte of y^e^ ſayd grownd ſhould Continue for a playinge place by the ſpace of fiue yeares onelye, and that then it ſhould be Converted to ſome other vſe for the benifitt of the Compl^te^ Duringe his terme, and after for the benifitt of the Defend^t^: And whether did not the Compl^te^ vpon that agream^t^ promiſe the Defend^t^ to paie him the ſaid ſomme of thirtye powndes, and to put the howſes and buildinges in good reparacions, and howe longe is it ſithence ſuche agreament was made, and how longe before the ſaid Theatre was pulled Downe: Deliuer the trueth what you knowe or haue heard hearein./

7./ Item whether hath Ellen Burbage the late wife of the ſaid Jeames Burbage any goodes or Chattells in her handes that were the goodes or Chattells of the ſaid Jeames Burbage wherbye the Defend^t^ maye haue recompence at her hands for the ſaid ſomme of thirtye powndes, and the breache of other Covenantes: And whether is not the ſaid Ellen accompted a verye pore woman, and

not able to ſatiſfye the Creditors of the ſaid Jeames Burbage: and whether did not the Compl*ainan*te and his brother, or one of them p*ro*cure the ſaid Ellen to take adminiſtracon of the good*es* of the ſaid Jeames Burbage, (the ſaid Comp^lte^ and his brother or one of them hauinge before ſecrettlye gotten the good*es* of the ſaid Jeames Burbage into their handes) that therbye they might Deceiue the Credito^rs^ of the ſaid Jeames Burbage: Deliuer what you know or haue Crediblie heard herein./.

8./ It*em* whether was the ſayd Theatre (which was erected vpon p*ar*te of the grounde aforeſaid/ built at the alone Chardges of the ſaid Jeames Burbage: or whether Did not one John Braynes Defraye the one halfe of the Chardges therof vpon agreament betweene the ſaid Jeames Burbage, and the ſaid John Braynes, that the ſaid John Braynes ſhould be partner with the ſaid Jeames Burbage in the profitt*es* therof: Deliuer what you knowe or haue heard herein./

9./ It*em* what ſom*m*es of money haue the ſaid Jeames Burbage and the Complain*ant* in their feu*er*all times gayned by the meanes of the ſaid Theatre: Deliuer the trueth what you knowe or haue Crediblie heard herein?/

10./ It*em* whether were you preſent at the pullinge Downe of the ſaid Theatre: and whether did you helpe to pull Downe the ſame, and by whoſe Commandem^t^ or appointem^t^ did you ſoe helpe to take it Downe and whome did you ſee preſent at the takeing Downe thereof: and whoe Did helpe & giue any affiſtance therin, and by whoſe Com*m*andem^t^ or appointment were they preſent or Did helpe to take it downe as you knowe or haue heard?/

11./ It*em* whether hath not the Defend^t^ alwaies Dealt verye fauourablie & Conſcionablie wth his ten*an*t*es*: Deliu*er* what you knowe, or haue Crediblye heard herein: and whether are you a ten*an*t vnto the Defend^t^ and howe longe haue you ſoe beene?/

12./ Item whether did not the ſaid Jeames Burbage often times faile in the paiment of his rent, and in the performance of other Covenantes: and whether had not the defendt muche trouble and Diſquietneſſe by occaſion therof: and whether did not the ſaid Jeames Burbage place Diuers verye poore people in ſome parte of the howſes & buildinges aforeſaid: and whether did not Diuers of the inhabitantes much miſlike therof & ſpeake ill of the Defendt for the ſame and whether did not the Compltę ſtill Continue thoſe poore people there for his owne profitte Deliuer what you knowe or haue Crediblie heard herein?/.

DEPOSITIONS

Depoſitiones captae apud weſtmonaſterium xxvjto die Aprilis A° Regni Domine Regine Elizabethe nunc &c Quadrageſimo Secundo ex parte Egidij Allen generoſi defendtis verſus Cuthbertum Burbage qrtem./

Phillippe Baker of Clyfton in the Countye of Bedff: gentleman of the Age of ffyftye Eight yeares or there aboutes ſworne and examyned the daye and yeare aboue ſaid depoſithe and ſaythe./

1/ Ti the ffirſtę Jnterrogatory this deponent ſaythe he hath hard the defendt (and others) ſaye that the Complainantes father did in his lyffe tyme Tender and deliuer vnto the defendt the Drawght of A newe leaſe of Certayne houſes and grounde ſ wch the ſaid defendant had before that tyme formerlye demiſed vnto him the Complainantes father. And that the Complainantes father did vppon the deliuerye thereof requyre the defendt to Seale and deliuer the ſame accordinge to fforme of Law in thoſe Caſes provided:/ And the defendt ſaid in his this deponentes preſentes that he refuſed the ſame for that the Leaſe wch the Complainantes father ſoe tendered vnto him was not verbatim agreeable wth the ould Leaſe before demiſed as there agreemt was togeather./ And for that there was ſome rent behynde and vn-

payde for the p*re*miſſ^{s} vppon the ould leaſe. And otherwiſe then vppon heare ſaye he ſaythe he cannot reporte for that he did not ſee the ſame leaſe tendered, nor the drawght thereof at any tyme./ And more touchinge the ſaid Jnterr*ogatory* this depon*e*nt Cannott depoſe./

2./ To the ſecond Jnterr*ogatory* this depon*e*nt ſaythe he hath hard the defendt ſaye that the Compl*ainantes* ffath*er* would ſwe him vppon A bonde of twoe hundred pound*es* for non p*er*formance of Couenant*es* But he hath not hard that the ſame bonde of twoe hund^{r}ed pound*es* is come to the nowe Compl*ainantes* Cuſtodye, nor that the Compl*ainan*t hath of late threatned the defendt to ſue him vppon the ſame bonde: And more he Cannot depoſe./

3./ To the thirde Jnterr*ogatory* this depon*e*nt ſaythe he hath hard the defendt ſaye that the Compl*ainantes* ffather did at the tyme of his deathe owe vnto him the ſome of thirtye pound*es* for rent of the Houſes and ground*es* wch he the defendt had demiſed vnto him the pl*aintiffes* fath*er,* And the defendt ſaid that the ſame thirtye pound*es* for Rent is yett remayninge vnpayd: but he hath not hard any oth*er* ſaye ſoe, nor that Complt hath yett Confeſſed ſoe muche or any other ſome to be dwe for rent owinge in his fath*er*s tyme./ And more he Cannott depoſe./

4./ To the ffourthe Jnterr*ogatory* this depon*e*nt ſaythe he knowethe not what Coſt*es* and Charges the pl*aintiffes* ffath*er* was at in his lyffe tyme about the Alteringe and Amendinge of the p*re*miſſes demiſed vnto him by the defendt, nor what ſome or ſomes of money James Burbage beſtowed to that purpoſe vppon the p*re*miſſs./ And more he Cannot depoſe./

5./ To the vth Jnterr*ogatory* this depon*e*nt ſaythe he hath hard the defendt ſaye that the Compl*ainantes* fath*er* did not keepe the ſaid demiſed p*re*miſſs in good rep*ar*ac*i*on when he lyved./ And hath hard that ſome of them be nowe in greate decaye vnderpropped wth Shores: but howe longe they haue bene ſoe he knowethe not,

nor what yt will Coſte to ſett the houſes that be decayed in good repa*ra*cions, nor knowethe by what meanes the p*re*miſſs are ſoe growne ruynated and decayed. And more he Cannot depoſe for that he hath not bene there of purpoſe to vewe the decayes th*er*of./

6./ To the vjth Jnterr*ogatory* this depon*en*t ſaythe that he was not p*re*ſente*s* wth the pl*aintiff* and defendt when there was any Agreem^{t} made and Concluded vppon betwene them onlye ſaythe that about Michaellmas laſte paſte was twelue monethe the defendt and he this depon*en*t lyinge in An Jnne in Shordyche Called the George at wch tyme the Compl*ainan*t repayred often to talke wth the defendt, And the defendt tould him this depon*en*t that yt was about A leaſe of the p*re*miſſs that the Compl*ainan*t ſued to him for:/ And that he ſhould haue one to Com*m*ence after thexpira-c*i*on of the owld leaſe wch he the defendt had made of the p*re*miſſs vnto the pl*aintiffes* fath*er*: And the defendt tould him this depon*en*t that the Compl*ainan*t was Contented and did p*ro*miſe him that in Conſid*era*cion of A newe Leaſe in Reu*er*c*i*on he would increaſe the defendt*es* Rent ten pound*es* p*er* Ann*um* more then yt was, and would repayre the houſes and buyldinge*s* decayed vppon the p*re*miſſs and would Suffer the Theater wch was th*er*-vppon erected for A playe houſe ſoe to Contynewe for A playe houſe the ſpace of ffyve yeares onlye, and that then yt ſhould be Converted to ſome other vſe for the Compl*ainantes* benefytt duringe his terme: And after thexpireac*i*on of his terme for the defendt*es* benefytt. And that therevppon the Compl*ainan*t did p*ro*miſe him the defendt paym^{t} of the thirtye pound*es* wch his ffath*er* owght him the defendt for rent before he dyed And this he hard by the reporte of the def^{t} and not oth*er*wiſe:/ And that yt is about A yeare or better as he remembrythe ſythence the ſaid Theater was pulled downe./ And more he Cannot depoſe toucheinge the ſaid Jnterr*ogatory* for that he knowethe not that the Compl*ainan*t Agreed wth the defendt as the defendt tould him this depon*en*t that he did./

7/ To the vijth Jnterr this deponent ſaythe he knowethe not in what ſtate the Complainantes ffather lefte his wyffe Ellen Burbage mencioned in the Jnterrogatory And therefore knowethe not whether ſhee have in her handes goodes and Chattles of her late huſbondes wherby the defendt maye have recompence at her handes for the thirtye poundes he claymeth and the breach of other Couenantes: But he ſayeth that ſhee is accompted A very poore woeman. And more he cannot depoſe touchinge the ſaid Jnterrogatory onlye ſayethe he hath hard the defendt affirme aſmuche as is in the Jnterrogatory alledged againſte the plaintiff and his brother

8./ To the viijth Jnterrogatory this deponent Can ſaye nothinge of his owne knowledge: but he hath hard diuerſe of the defendtes tenantes ſaye that the ſaid Theater was not buylded at the onlye Charge of the Complainantes father but that one John Braynes mencioned in the Jnterrogatory did defraye the one halfe of the Charges thereof vppon Agreem^{t} betweene them that Braynes ſhould be partner wth the plaintiffes father in the profyttes thereof./ And more he Cannot depoſe./

9./10./ To the ixth and xth Jnterrogatory this deponent Can ſaye nothinge

11/ To the xjth Jnterrogatory this Deponent ſaythe that the defendant hath alwayes dealte well and Conſcionablye wth his tenantes: wch he knowethe to be true for that he is one of his tenantes and hath founde him A very good Landlorde./ And more he Cannot depoſe./

12./ To the xijth Jnterrogatory this deponent ſaythe he thinkethe that the Complainant doethe Contynewe ſuche tenantes in the premiſſs as his father placed there and are now lyvinge./ And he hath hard the defendt ſaye that the plaintiffes father ſomtymes fayled paym^{t} of his rent and performance of other Couenantes And more he Cannot depoſe touchinge the ſaid Jnterrogatory to his

nowe remembrance only he hath hard many reportes of the defendt touchinge thofe matters mencioned in the Jnterrogatories./
(Signed) Phillip Baker

John Goborne of the parifhe of S^{ct}: Leonardes in Shordytche in the Countye of middlefex marchaunttaylo^{r} of the Age of ffortye ffoure yeares or there abouteſ fworne and examyned the daye and yeare abouefaid depofithe and faythe./

1/ To the ffirfte Jnterrogatory this deponent faythe that James Burbage the Complainantes ffather did in his lyffe tyme (as this deponent hath hard) tender vnto the defendt the drawght of A leafe of Certayne Houfes and groundes wch he the defendant had formerlye demiffed vnto him the faid James Burbage, and required the defendt to Seale the fame newe leafe./ And as the defendt hath reported in his this deponentes prefentes he did refufe to Seale the fame for that the Newe leafe wch James Burbage did tender vnto him was not fett downe wth the fame woordes the ould Leafe was wch the faid James Burbage was bound by Couenant to doe and no otherwife and the defendt refufed to Seale the faid Newe leafe for other Caufes viz for that the faid James Burbage was as he faid but A bad tenant and behind wth his rent and had not repayred the demifed premiffs accordinge to Couenant betweene them: And more he Cannot depofe touchinge the faid Jnterrogatory for that the drawght of the Newe leafe is not nowe fhewed ffoorthe vnto him at the tyme of this his examinacion

2./ To the feconde Jnterrogatory this deponent faythe he hath hard the defendt Confeffe and faye that he was bound vnto the deceafed James Burbage in the fome of twoe hundred poundes for performance of Couenantes Conteyned in the leafe made by him the defendt vnto the faid James Burbage: But he never hard the Complainant faye that he had that bond of twoe hundred poundes in his Cuftodye, nor hath hard the Complainant threaten to put

the ſame or any ſuch bonde in ſuyte againſte the defend*ant*: And more he Cannot depoſe./

3/. To the thirde Jnterr*ogatory* this depon*ent* ſaythe he verelye belevethe that the ſaid deceaſſed James Burbage did at the tyme of his deathe owe vnto the defend*ant* for rent and tharrerages of Rent Dwe vnto the defend*ant* for the houſes and ground*es* wch he held by demiſe the ſome of thirtye pound*es*: for this depon*ent* ſayth he hath hard the Compl*ainant* Conſent to paye the defendt thirtye pound*es* wch his fath*er* James Burbage did owe vnto the defendt./ And he knowethe that the ſaid thirtye pound*es* is yett vnpayde and more he Cannot depoſe./

4./ To the ffourthe Jnterr*ogatory* this depon*ent* ſaythe that in his Conſcience he thinkethe the ſaid deceaſſed James Burbage did not (wthin the ſpace of the firſte tenne yeares after the ſaid p*re*miſſs weare demiſed vnto him by the defendt) beſtowe the ſome of twoe hundred pòundes about the Alteringe and Amendinge of the houſes and buyldinge*s* firſt demiſed vnto him by the defend*ant*: But ſaythe he knowethe that the deceaſſed James Burbage did beſtowe wthin the tyme of the firſte ten yeares good ſtore of money about the Alteringe and Amendinge of the houſes Demiſed vnto him: yett not the full ſome of twoe hundred pound*es* as he takethe yt: And ſaythe he knowethe not howe muche money was ſoe beſtowed vppon the demiſed p*re*miſſs by the ſaid James Burbage: And more he Cannot depoſe./

5./ To the vth Jnterr*ogatory* this depon*ent* ſaythe that for the ſpace of the firſte ten yeares the Compl*ainantes* fath*er* kepte the p*re*miſſs demiſed vnto him by the defendt in good and Suffytient rep*ar*acions but afterward*es* in his lyffe tyme they fell to decaye and ſome p*ar*te thereof was vnderpropped wth Shores: And ſynce his deceaſe that the p*re*miſſs haue bene in the pl*aintiffes* poſſeſſion they have fallen into greater decaye and are vnderpropped wth more Shores: and ſoe remaynes yett vnrepayred: And will Coſte muche money to be putt in rep*ar*acions: but howe

muche he knowethe not for that he is not Carpenter nor woorkman belonginge to that trade: And that he thinkethe the ſaid houſes are ſoe ffallen to decaye for want of repa*r*acions done in tyme./ And more he Cannot depoſe./

6./ To the vjth Jnterro*gatory* this Depone*n*t ſayth that about Michaelmas laſte was twelue monethe he this depone*n*t was in Companye wth the Compla*inan*t and defend*an*t at wch tyme yt appeared vnto him this depone*n*t that the Compla*inan*t had bene an earneſte ſutor vnto the defendt for A newe leaſe of the houſes and ground*es* wch his late fath*er* James Burbage had by leaſe from him the defend*an*t. And then the defendt was Contented to graunte the Compla*inan*t A newe leaſe for one and twenty yeares of the ſaid houſes and ground*es* wch his father James Burbage had yf ſoe be he the Compla*inan*t would paye vnto him the defend*an*t the thirtye pound*es* arrerages of Rent wch his fath*er* James Burbage owght him at the tyme of his death put the houſes in repa*r*acions, and paye him the defend*an*t for the ſame pr*e*miſſs twentye ffoure pound*es* Rent p*er* Ann*um*, And Suffer the Theater then ſtandinge vppon p*ar*te of the ground demiſed vnto his fath*er* to ſtand for A playinge houſe but onlye one ffyve yeares of his terme of one and twentye viz ffyve of the ffirſte yeares and after to converte the ſame to tenem^{tes} or vppon repa*r*acions of the oth*er* houſes there and ſoe leave yt beſtowed after his terme ended for the defendt*es* benefytt. And he bounde wth Suffytient ſuertye for paym^{t} of his Rent: wch the Compla*inan*t did Conſent vnto, And then p*r*offered his brother Richard Burbage for his ſuertye to be bound for the paym^{t} of his rent wch the defendant miſlyked And therevppon they broke of Agayne And ſoe p*ar*ted. And ſayth that yt was at the ſygne of the George in Shordiche that they had the ſaid Com*m*unycacion of Agreem^{t} touchinge the leaſe of the p*r*emiſſs and Couenant*es* and that yt was about Michaelmas laſte was twelue monethe that they mett about the ſame. And the Chriſtmas nexte after the ſaid Theater was pulled downe and Carried Awaye. And more he Cannot depoſe touchinge any oth*er* Agreem^{t} betweene them./

7./ To the vijth Jnterr*ogatory* this depon*ent* ſaythe that Ellen Burbage the late wyffe of James Burbage hathe not the good*es* and Chattles wch weare her ſaid huſbond*es* ffor he doethe knowe that the ſaid James Burbage her huſbonde in his lyffe tyme made A deed of guyfte of all his good*es* and Chattles vnto the Compl*ainant*: wch deed he hathe ſeene And there ffore he thinkethe ſhee hath not in her hand*es* of her ſaid huſbond*es* good*es* and Chattles Suffytient to paye the defend*ant* the ſaid ſome of thirtye pound*es* wch her huſbonde owght vnto the defend*ant* for Rent and Arerages of Rent at the tyme of his deceaſe: And ſhee is accompted A poore woeman not hable to Satiſfie her huſbond*es* Credyto^{rs}./ But he knowethe not that ſhee the ſaid Ellen was by the pl*aintiff* and his brother p*ro*cured to take l*ett*res of adminiſtrac*i*on of her huſbond*es* good*es*, the good*es* beinge before ſecreatlye gayned by the Compl*ainant* into his and his brothers owne hand*es* as is alledged in the ſaid Jnterr*ogatory*./ to deceave the ſaid James Burbage his Credito^{rs}. And more he Cannot depoſe./

To the viijth Jnterr*ogatory* this Depon*ent* ſaythe that the Theater wch was erected vppon p*ar*te of the demiſed p*re*miſſes was buylte by the Compl*ainantes* ffath*er* and one John Braynes and not by the ſaid James Burbage alone: for he hath ſeene the Accompt*es* betweene them whereby yt appeared that the ſaid Braynes bore halfe the Charge th*er*of and was a p*ar*tner wth James Burbage in the profytt*es* thereof: And more he Cannot depoſe.

9./ To the ixth Jnterr*ogatory* this Depon*ent* ſaythe he knowethe not what ſomes the Compl*ainant* and his father haue gayned in there ſeu*er*all tymes by meanes of the Theater: but they haue gayned muche: And more he Cannot depoſe./

10/ To the tenth Jnterr*ogatory* this depon*ent* ſaythe that he hard that the Theater was in pullinge downe. And having A l*ett*re of Attorney from the defendt to forbid them: did repayre thyther And did fynd there at the pullinge downe of the ſame and that Comaunded and Countenaunced the ſame:/ one Thomas Smythe,

the Compl*ainan*t and Peeter Streete the Cheefe carpenter And thother that weare there weare laborers and ſuche as wrought for wages whoſe names he perfectlie remembrithe not. And more he Cannot depoſe./

11/ To the xjth Jnterr*ogatory* this depon*e*nt ſaythe he is the defendt*es* tenant. And he hath alwayes found the defendt A very ffavorable and Conſcyonable Landlord, And ſoe he is to all his tenant*es* beinge well delte wthall. And more he Cannot depoſe

12./ To the xijth Jnterr*ogatory* this depon*e*nt ſaythe that he knowethe the Compl*ainantes* ffath*er* did in his lyffe tyme fayle the payment of his rent vnto the defendt for he knewe when at one tyme there was ffyftye pound*es* Rent owinge by the Compl*ainantes* father, And the defend*an*t had muche troble wth the ſaid James Burbage about the ſame: And the ſaid James Burbage placed ſuche tenant*es* in ſome p*ar*te of the houſes and buyldinge*s* ſoe leaſed vnto him by the defendt as the officers of that p*ar*iſhe ffound muche falte wth the defendt for Sufferinge the ſame, And the Compl*ainan*t did and doethe Contynewe ſome of thoſe and ſuche lyke tenant*es* there ſtill: And more he Cannot depoſe./

[Signed] John Goborne

Henry Johnſon of the p*ar*iſhe of S^{ct}: Leonard*es* in Shordytche in the Countye of midd*leſex* Sylkeweaver of the Age of ffyftye yeares or there about*es* ſworne and examyned the daye and yeare abouefaid depoſithe and ſaythe/

1/ To the ffirſte Jnterr*ogatory* this depon*e*nt ſaythe that the Compl*ainantes* fath*er* did in his lyffe tyme tender and deliu*er* vnto the nowe defend*an*t the Draught of A newe leaſe of Certayne houſes and ground*es* wch he held of the defendt by A former leaſe and the Compl*ainantes* father required the defendt to Seale the ſame leaſe wch he tendered vnto him. but the defendt refuſed to Seale the leaſe tendered for that he ſaid yt was not accordinge to the ſame Couenant*es* Conteyned in the ould leaſe. And for

that the ſaid Compl*ainantes* fath*er* (as the defendt then affirmed) was behinde wth the paym^{t} of p*ar*te of his rent reſerved vppon the ould Leaſe./ And that he knowethe the ſame to be true for that he was p*re*ſent when the ſame leaſe was tendered by James Burbage to the defendt to Seale att wch tyme the ſaid James Burbage anſwered the defendt that whatſoeu*er* was Amiſſe in the newe leaſe was not longe of him but the ſcryveno^{r} whoe drewe the ſame. And more he Cannot depoſe touchinge the ſame Jnter*rogatory* for that he is not nowe at the tyme of this his examineac*ion* ſhewed the newe leaſe./

2./ To the ſeconde Jnterr*ogatory* this depon*ent* ſaythe he hathe hard the ſaid James Burbage ſaye that the defendt was bound vnto him in the ſome of twoe hundred pound*es* for the p*er*formance of Couenant*es* Conteyned in the ffirſte leaſe made by the defendt to the ſaid James Burbage and he hath hard the defend*ant* acknowledge the ſame to be true./ And hath hard the nowe Compl*ainant* ſaye that he had that bonde in his Cuſtodye and that he would put the ſame in ſuyte againſte the defendt./ And more he Cannot depoſe./

3./ To the thirde Jnterr*ogatory* this depon*ent* ſaythe he hath hard the defendt ſaye that the Compl*ainantes* father did at the tyme of his deceaſe owe vnto him the defendt for Arerages of Rent the ſome of thirtye pound*es*: wch ſome of thirtye pound*es* ys yett owinge and vnpayd: And ſaythe that ſynce James Burbage deceaſe the Compl*ainant* hath confeſſed the ſame in this depon*entes* p*re*ſent*es*. And hath p*ro*miſſed to paye the ſame vnto the defendt Condiconally he the defendt would make him A newe leaſe of the houſes and ground*es* his ſaid fath*er* James Burbage had of him by leaſe. And more he Cannot depoſe./

4./ To the ffourthe Jnterr*ogatory* this depon*ent* ſaythe he thinkethe the ſaid James Burbage did not within the firſte tenn yeares (wch he held the demiſſed p*re*miſſ*es* of the defendt) beſtowe the ſome of twoe hundred pound*es* vppon and about the Alteringe and

Amendinge of the houſes and buyldinge*s* demiſed vnto him by the Defendt for that wthin the ſaid firſte tenn yeares he this depone*n*t hath hard the defe*nda*nt fynd falte wth the ſaid James Burbage for that he had not pe*r*formed his Couenant in that poynt./ yett the ſayd James Burbage ſtill did ſaye that he had to the vttermoſte. And more he Cannot depoſe./

5./ To the vth Jnterro*gatory* this depone*n*t ſaythe he knowethe that the ſaid James Burbage in his lyffe tyme did not keepe the houſes and buyldinge*s* demiſed vnto him (by the defendt) in good repa*r*acions for in his tyme one end of the Barne did fale to ſuche ruyne as that they weare Conſtrayned to vnderproppe yt wth Shores. And ſoe yt was remayninge at the tyme of James Burbage his deathe. And yet remaynethe ſoe: but vnderpropped wth more Shores then before: but he ſaythe he knowethe not what yt will coſte to ſett the ſame wth the reſte of the premiſſs in good repa*r*acions for that he hath but lytle Judgment in thoſe woorke*s*: And ſaythe further that the ſaid Barne and thothe*r* houſes are ſoe ruinated for want of repa*r*acions in dwe tyme./ And more he Cannot depoſe./

6./ To the vjth Jnterro*gatory* this depone*n*t ſaythe that about Michaellmas Terme Laſte paſte was tweluemonethe the Compl*ainan*t one John Golborne and he this depone*n*t mett at the defendte*s* Lodginge (wth the defendt) at the ſygne of the George in Shordytche aforeſaid at wch tyme there paſſed betweene the Compl*ainan*t and defendt diue*r*ſe ſpeeches touchinge A newe leaſe of the premiſſs to be made by the defendt to the Compl*ainan*t for one and twentye yeares: wch ſpeeche and Com*m*unycacion was to this or the lyke effecte viz the Compl*ainan*t demaunded of the defendt A leaſe of the houſes and grounde*s* for one and twentye yeares to com*m*ence after thexpiracion of the leaſe wch had bene before made vnto his ffather James Burbage: and that the Theater wch then was vppon pa*r*te of the ſaid grounde*s* might for this terme of one and twentye yeares remayne for A place to playe in as yt was woonte: And in Conſide*r*acion thereof he the Compl*ainan*t

then promiſed to geue the defendt twentye ffoure pound*es* p*er* Ann*um* for A yearlye rent for the p*re*miſſs and would take vppon him to paye the defendt the ſome of thirtye pound*es* wch the defendt Claymed for Arerages of Rent dwe in James Burbage his lyffe tyme and would vndertake to putt the manſion houſes vppon the premiſſs in repa*ra*cion./ And the defendt was Contented and did accepte of the Compl*ainantes* p*ro*ffer in all, excepte his demaund for the Theatre to ſtand as a playe houſe wch he miſlyked wth wherevppon the Compl*ainan*t requeſted the defendt that he would Suffer yt to ſtand for A playe houſe but the ffyve ffirſte yeares of the one and twentye yeares and afterward*es* he would Converte the ſame to ſome other better vſe. viz into tenem^{t*es*} or repayringe thother p*re*miſſs demiſed vnto him and afterward*es* leaue the ſame vppon the p*re*miſſs for the defendt*es* benefytt. wch the defendt then Agreed vnto And then demaunded of the Compl*ainan*t Suffytient ſecurytie for the paym^{t} of his the Compl*ainantes* Rent duringe his terme of one and twentye yeares: wherevppon he made p*ro*ffer vnto the defendt of his brothe*r* Richard Burbage wth whome the defendt miſlyked and ſoe therevppon they lefte of and pa*r*ted. And more he Cannot depoſe ſaue onlye that there ſaid Com*m*unycacion was the Michaelmas terme was tweluemonethe and the pullinge downe of the Theatre was the Chriſtmas ffollowinge./

7./ To the vijth Jnterr*ogatory* this deponnt ſaythe he thinkethe that the ſaid Ellen Burbage menc*i*oned in the Jnterr*ogatory* is A very poore woeman and hath not in her hand*es* ſuffytient to Satiſfie her late huſbond James Burbage his debt*es*: nor for his breache of other Couenant*es*. And more touchinge the ſaid Jnterr*ogatory* this depon*e*nt cannott depoſe ſaue onelye that he hath hard that the Compl*ainan*t and his brother did take that Courſe menc*i*oned in the Jnterr*ogatory* to defraud there fathe*r*s Credyto^{rs}./

8./ To the viijth Jnterr this depon*e*nt ſaythe he thinkethe that the deceaſed James Burbage did not of his owne p*ro*p*er* Coſte and Charge buyld and erecte the playe houſe called the Theater: ffor

he hath hard one John Braynes ſaye that he did defraye the better halfe of the Charges thereof vppon Agreem[t] betweene them: And ſaythe he was A gatherer of the p*roffyttes* th*erof* vnder James Burbage and John Braynes and knew they p*ar*ted the p*roffyttes* betweene them: And more he cannot depoſe./

9./ To the ix[th] Jnterr*ogatory* this depon*ent* ſaythe that the Compl*ainantes* fath*er* and the Compl*ainant* haue gayned greate ſomes of money by the Theater: But howe muche he knowethe not: And more he Cannot depoſe./

10/ To the xth Jnterr*ogatory* this depon*ent* ſaythe he went to the Theater when yt was in pullinge downe to charge the woorkemen and the Compl*ainant* not to pull the ſame downe for that yt was not accordinge to anye Agreem[t] or Com*m*unycac*i*on of agreem[t] in his p*reſentes* And beinge there he this depon*ent* did perceave that the ſame Theater was appoynted to be ſoe pulled downe by the Compl*ainant* by his Brot*h*er Richard Burbage and one Thom*as* Smythe: and one [Peter] Streete who was heade Carpenter that gaue aſſiſtance therein: And when he had ſoe Charged them not to pull the ſame Theatre Downe they the ſaid Compl*ainant* and Thomas Smythe and [Peter] Streete the Carpenter tould him this depon*ent* that they tooke yt downe but to ſett yt vpp vppon the p*re*miſſs in an other forme and that they had Couenanted wth the Carpenter to that effecte and Shewed this deponnt the decayes about the ſame as yt ſtoode there thereby Colloringe there deceipte. And more he Cannot depoſe ſaue onlye that notw[th]ſtandynge all there ſpeeches they pulled yt downe and Carried yt Awaye And more he Cannot depoſe./

11/ To the xj[th] Jnterr*ogatory* this depon*ent* ſaythe that he is the def*endantes* tenant and ſaythe that his landlord Allen is A very honeſte and Conſcyonable man very favorable to all his tenant*es* not vſinge any of them in extremetye. And that he this depon*ent* hath bene his tenant theſe thirteene yeares. And more he Cannot depoſe./

12./ To the xijth Jnterr*ogatory* this depon*ent* ſaythe he knowethe that James Burbage did in his lyffe tyme fayle in the paym^{t} of his Rent and in p*er*formance of couenantes wth the defendt./ and the defendt hath Suffered muche Diſquyetnes by occac*i*on thereof: for the ſaid James Burbage placed ſuch tenant*es* in the Barnes and tenem^{tes} wch he held by leaſe from the defendt as the officers of the p*ar*iſhe there haue ffound muche falte th*er*wth and haue geuen the defendt ill ſpeeches for Sufferinge the ſame. And the Compl*ainan*t ſtill Contynewethe ſuche lyke tenant*es* there for his p*ro*ffytt: And he knowethe the ſame to be true for that he hath hard the defendt demaund his rent of James Burbage and Could not then haue yt, And he hath bene officer there and hath had ſome of the p*ar*iſhners fynd much falte wth ſome of thoſe tenant*es*./ And more he Cannot depoſe to his nowe remembr*a*nce./

[Signed] Henry Johnſon

Idem. Depositions ex parte Burbage 15 May, 1600.

INTERROGATORIES

[In dorso]
T*ermi*no Trinit*atis*
xlij^{do} R*egni* Reg*i*ne
El*izabethe*

Jnterrogatories myniſtred for thexamynac*i*on of witneſſes produced on the parte and behalf of Cuthberte Burbadge Compl^{t} againſte Giles Allen defend^{t}

1. Jnprimis doe yo^{w} knowe the parties pl*aintiff* and defend^{t} and howe longe haue yo^{w} knowen them or either of them, And did yo^{w} not likewiſe knowe one James Burbadge father of the ſaid Compl*ainant* nowe deceaſed.

2. Doe yo^{w} knowe that the ſaid Defend^{t} Giles Allen and Sara his wief aboute the thirteenth daye of Aprill in the eighteenth yere of her ma^{ties} reigne did demiſe vnto the ſaid James Burbage cer-teine garden groundes lyinge and beinge in Hollywell in the

pariſhe of Ste Leonard*es* in Shorditch in the Countie of Mid-d*leſex* for what terme, rente, and vnder what Couenaunt*es* was the ſame leas ſo made Declare yor knowledge herein, and how yo^w^ knowe y^e^ ſame.

3 Doe yo^w^ knowe that the ſaid James Burbadge before thende of the firſte terme of Tenne yeres menc*i*oned in the ſaid leas did require the ſaid Defend^t^ to make vnto him the ſaid James a newe leas of the p*re*miſſes accordinge to the purporte and effecte of the Couenaunte menc*i*oned in the foreſaid leas, Did not the ſaid James Burbadge tender vnto the ſaid Defend^t^ a newe leas readie written and ingroſed wth labell*es* and waxe thereunto fixed, and was not the ſame agreable to the Couen^t^ in the ſaid firſte leas menc*i*oned And did not the ſaid Defend^t^ then make ſhewe that he wolde deliu*er* the ſame to the ſaid James Burbadge but ſhifted of the fyniſhinge thereof, Declare yor knowledge herein and howe yo^w^ knowe the ſame/

4. Doe yo^w^ knowe that the ſaid Compl*ainan*t did aboute twoo yeres nowe laſt paſte & diuers tymes ſince require the ſaid defend^t^ [*and his wief* (stricken out)] to make vnto him A newe leas of the p*re*miſſes accordinge to the agreem^t^ menc*i*oned in the ſaid firſte leas, Did not the ſaid Defend^t^. denye to make vnto him the ſaid leas, and what was the Cauſe he the ſaid defend^t^ Did not make the ſaid leas to yor knowledge or as yo^w^ Crediblie haue hard Expreſſe the truth hereof at large, and what yo^w^ knowe touchinge the ſame.

5 Did not Ellen Burbadge mother of the Compl*ainant* giue her Conſente that the ſaid Compl*ainant* ſhould take downe, and Carry awaie the tymber and ſtuff ymploied for the theater or playhouſe in the bill menc*i*oned Declare the truth herein.

6 Doe yo^w^ knowe that there was variaunce and Controu*er*ſie aboute eighteene yeres paſte betwene the Defend^t^ and one Edmond Peckham touchinge the title of the ſaid p*re*miſſes, was not the ſaid

James Burbadge by reaſon of the ſame Controu*er*ſie often charged to finde men to keepe the poſſeſſion of the ſaid p*re*miſſes from the ſaid Edmond Peckham and his ſ*er*vaunt*es,* and was not the ſaid James Burbadge often arreſted and much troubled by reaſon of the ſaide Controu*er*ſie that he Coulde not peaceablie enioye the p*re*miſſes accordinge to his ſaid leas, Declare yor knowledge herein and howe yo^{w} knowe the ſame.

7 Did not the ſaid James Burbadge in his lief tyme for dyuers yeres duringe his terme, diſburſe and beſtowe muche money aboute the rep*ar*ac*i*ons of the ſaid Tenem^{t*es*} to yor knowledge or as you Crediblie haue hard, and to what value did the ſame money growe Declare yor knowledge herein/

8 Hath not the ſaid Compl*ainant* ſithence the death of the ſaid James Burbadge eu*er*ie yere beſtowed muche money in repayringe of the ſaid Tenem^{t*es*}, and did not the ſaid Compl*ainant* this laſte yere likewiſe beſtowe a greate ſome of moneye in rep*ar*ac*i*ons of the ſame to yor knowledge Expreſſe the truth herein and howe much he beſtowed aboute the ſame

9 Did yo^{w} knowe the ſaid Tenem^{t*es*} before and at the tyme theie weare taken by the ſaid James Burbadg of the Defend^{t}, in what manner and ſtate of reparac*i*ons were the ſame then in Concerninge the ſufficiencye of the buildinge of them, And are not the ſame Tenem^{t*es*} nowe much bettred and lett for more rente then theie then did Declare yor knowledge herein at large.

10 Was there not a decayed longe barne p*ar*cell of the ſaid p*re*miſſes demiſed to the ſaid James Burbage ſometymes in the tenure of one Richard*es,* and Stoughton, and was not the ſaide barne at the tyme of the leas made to the ſaid James Burbadge ruynous and decayed, ſo as the ſame was fayne to be ſhored vpp vnto the playhouſe called the Theater, when it was builte, and hath not the ſaid James Burbadg and the nowe Compl*ainant* from tyme to tyme repayred the ſame Declare yor knowledg herein

11. Whether were not yo^{w} p*refe*nte at A viewe and eſtymate made of ſuche Dwellinge houſes or ten*ementes* as were erected and builte, and other Coſt*es* beſtowed vppon the ſame by the ſaid James Burbadge taken the eighteenth daie of Julye 1586 by Bryan Ellam, John Grigges, Will*ia*m Bothan, Will*ia*m Clarke, Richard Hudſon and Thomas Oſborne, howe longe before the ſaid viewe or eſtymate ſo taken was the ſame Coſt*es* in buildinge ſo beſtowed by the ſaid Burbadge, and how much was there then beſtowed by the ſaid James Burbadge vppon the ſame buildinges to yor owne knowledge and were yo^{w} not p*refe*nte at the ſettinge downe of the ſaid viewe or eſtymate written in A booke and Confirmed vnder the ſaid parties handes, and was not the ſame A true ſ*ur*veye Declare the truth herein at large.

12. Did not the ſaid Brian Elham Will*ia*m Bothan and Will*ia*m Clark the ſame tyme affirme that theie had formerlie made A viewe of the ſaid buildinges taken by them the twentith daye of November 1585, and had likewiſe Confyrmed the ſame vnder theire handes beinge written in A booke of Accompte, what did theye ſaye the eſtymate came then vnto, and what doe yowe thincke or beleiue concerninge the truthe of the ſame Declare vppon yor oathe.

DEPOSITIONS

Depoſitione*s* Capt*ae* ap*u*d Weſtm*ona*ſ*terium* xv^{to} die maij A° Regni Dom*in*e Reg*in*e Elizabethe hunc &c Quadrageſimo Secundo ex p*ar*te Cuthberti Burbage gen*erofi* q^{rtis} verſ*us* Egidi*um* Allen gen*erofum* Defend*entem*.

Richard Hudſon of the p*ar*iſhe of S^{ct}: Albones London Carpenter of the Age of thirtye eight yeares or there about*es* ſworne and examyned the daye and yeare abouеſaid depoſithe and ſaythe/

1./ To the ffirſte Jnterrogatory this depon*ent* ſaythe he knowethe the Compl*ainan*t and did very well knowe his ffather James Burbage

when he lyved./ And hath ſeene the defendt: And ſaythe he hath knowne the Compl*ainan*t of A Child and more he Cannott depoſe

2. 3. 4. 5. 6. 7.
8./ To the ſecond, thirde, ffourthe ffyfthe, Syxte, Seaventhe and Eighte Jnterr*ogatories* this depon*en*t is not examyned at the requeſte of the pl*aintiff*

9./ To the nynthe Jnterr*ogatory* this Depon*en*t ſaythe he knowethe the tenem^{tes} nowe in the Compl*ainantes* poſſeſſion, And did knowe them for twentye yeares paſte in the Compl*ainantes* ffathers poſſeſſion vſe and occupac*i*on and that then the ſame tenement*es* weare ould decayed and ruynated for want of repa*r*ac*i*ons and the beſte of them was but of twoe ſtories hie./ And the ſame tenem^{tes} are nowe muche better, And as he thinkethe they goe for more Rent then they then went for:/ And that he knowethe the ſame to be true for that he this depon*en*t did ſerve his ffather in lawe Bryan Ellam when he Wroughte vppo*n* the ſame tenem^{tes} in the Compl*te*s fath*er*s tyme./ And knoweth that then there was muche money beſtowed vppon repayringe the ſame./ And more he Cannot depoſe touchinge the ſame Jnterr*ogatory* for that he doethe no*t* remember that he did knowe the ſaid tenem^{tes} before and at the very firſte tyme that the Compl*ainantes* ffath*er* James Burbage tooke the tenem^{tes} of the defend*an*t by leaſe./

10/ To the tenthe Jnterr*ogatory* this Depon*en*t ſaythe he remembrythe that when he firſte wayted vppon his father in lawe Bryan Ellam wch is aboue twentye yeares ſince there was An ould longe decayed Barne vppon p*ar*te of the p*re*miſſs demiſed as he takethe yt to James Burbage. wch barne was very ruynous and decayed ſoe as then the ſame was ſayne to be ſhored vpp vnto the Playhouſe Called the Theater: wch Barne the ſaid James Burbage and the Compl*ainan*t haue bene ſayne from tyme to tyme to repayre and Amend: wch he knowethe to be true for that he knewe his ſaid ffath*er* in lawe Brian Ellam ſhore vpp the ſame vnto the

Playhouſe called the Theater, And he this depon*en*t him ſelfe hath ſynce then wrought Carpenters woorke in and about the ſame:/ But he doethe not well remembe*r* there names that then dwelled in the ſame Barne: yett hath Crediblie harde that yt was one Richard*es* and Stoughton. And one Baker And more he Cannot depoſe./

11/ To the xjth Jnterr*ogatory* this depon*en*t ſaythe he was p*re*ſent at A view and eſtimate made of the Coſt*es* beſtowed by James Burbage in his lyffe tyme vppon the houſes and tenem^{tes} demiſed vnto him by Gyles Allen the nowe defend*ant*. wch viewe was taken the Eighteenthe daye of Julye in the yeare of ou^{r} lord god one thouſand ffyve hundred Eightie Syxe by this depon*en*t*es* ſaid ffathe*r* in lawe Brian Ellam, John Grigg*es*, Will*ia*m Bothan, Will*ia*m Clarke, Thomas Oſborne and him this depon*en*t, at wch viewe yt did appeare vnto them the ſaid viewors that before that tyme of there viewe there had bene beſtowed vppon the p*re*miſſs demiſed to the ſaid James Burbage by him the ſaid James Burbage the ſome of twoe hundred and fortye pound*es* as maye more playnlye appeare by A rememberance thereof ſett downe in one of the ſaid James Burbage his Book*es* of Accompt*es* wherevnto is ſubſcribed the ſaid viewors names and mark*es*: vnto wch booke for more certayntye of the truethe herein this depon*en*t referrithe him ſelfe./ And this Depon*en*t ſaythe that he verelye thinkethe that the ſaid Coſte wch then was by the viewors found to haue bene beſtowed vppon the houſes and buyldinge*s* by the ſaid James Burbage was beſtowed ſome three or ffoure yeares before the viewe ſoe taken by the ſaid Bryan Ellame, John Grigg*es*, Will*ia*m Botham, Will*ia*m Clarke, Thomas Oſborne and him this Depon*en*t: And ſaythe he was emongeſte the reſte p*re*ſent at the ſettinge downe of the ſaid viewe & eſtimate wrytten in the ſaid James Burbage his booke and confirmed there vnder all there hand*es*. wch he knowethe was Juſtlie trulye and indifferentlye ſurveyed by the p*ar*ties Aforeſaid aſwell for the ſaid James Burbage as his Landlord Gyles Allen./ And more he Cannot depoſe./

12./ To the xijth Jnterr*ogatory* this Depon*ent* ſaythe that when they mett togather to take the viewe the Eighteenth daye of Julye in the yeare of ou^{r} lord god one thouſand ffyve hundred Eightie Syxe he hard his ſaid ffather in lawe Bryan Ellame, William Botham, and William Clarke affirme that they had fformerlye made A viewe of the ſaid Buyldinge*s*, about nouember in the yeare of ou^{r} Lord god one thouſand ffyve hundred Eightie ffyve wch viewe they ſaid they had Confirmed vnder there hande*s* in A booke of Accompte of the ſaid James Burbage And that as he remembrithe they affirmed that the eſtimate firſte by them made came to twoe hundred and twentye pounde*s* And more he Cannot depoſe touchinge the ſame Jnterr*ogatories* to his nowe remembe*r*ance./

[Signed] Rychard Hudſons

Thomas Bromfield of the pa*r*iſhe of S^{ct}: Leonarde*s* in Shordytche in the Countye of Midd*lefex* Bricklayer of the Age of thirtye yeares or thereaboute*s* ſworne and examyned the daye and yeare abouefaid depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this depon*ent* ſaythe he knowethe the Compl*ainant* and defendt and hathe knowne the Compl*ainant* about Seaven years and the defendt about ffyve yeares, And ſaythe he did very well knowe James Burbage mencioned in the Jnterr*ogatory* father of the ſaid Compl*ainant*./

2. 3. 4. 5. To the ſecond, thirde, ffourthe ffyfte, Syxte Jnterr*ogatories* 6/ this depon*ent* is not examyned at the requeſte of the pl*aintiff*./

7./ To the vijth Jnt*errogatory* this depon*ent* ſaythe he knowethe of his owne knowledge that the ſaid James Burbage did in his lyffe tyme and for diue*r*ſe yeares duringe his terme in his leaſe of his tenem^{te*s*} from the defendt Allen diſburſe and beſtowe muche money about the repa*r*acions of the ſaid houſes and tenem^{te*s*} demiſed vnto him by the ſaid defendt Allen for this depon*ent* ſaythe that for eight yeares he this depon*ent* wth others haue yearlye done

repa*r*acions vppon and About the ſame tenem^{tes} at the Coſt*es* of the ſaid James Burbage for he ſtill payde the other woorkmen and him this depon*e*nt for his woorke donne there. But the valewe of his Charge beſtowed vppon and about the ſame houſes and tenem^{tes} he knowethe not Certaynlye./ And more he Cannot depoſe./

8./ To the Eight Jnterro*gatory* this depon*e*nt ſaythe he knowethe that ſythence the deceaſe of James Burbage the Compl*ainan*t hath euerye yeare beſtowed ſome money in repayringe of the ſaid tenem^{tes} demiſed vnto his fath*er* James Burbage. And this laſte yeare he the Compl*ainan*t lykewiſe beſtowed A greate ſome of money in repa*r*acions of the ſame houſes and tenement*es* for he beſtowed the buyldinge of twoe Chimneys in one of the ſaid tenem^{tes}, and repayred the houſes in diu*er*ſe places ſoe that they be nowe in as good repa*r*acions as eu*er* they weare to this depon*ent*es knowledge and he hath knowne them theſe tenn or eleven yeares./ And this depon*e*nt ſaythe that the laſte yeare he this depon*e*nt for his pa*r*te earned of the Compl*ainan*t for woorke done vppon and about the ſaid tenem^{tes} ffyftye Shillinge*s* wth his laborers wages and the Stuffe wch the pl*aintiff* founde./ And ſaythe that there was one other bricklayer that lykewiſe wrought about the ſaid houſes and vppon the tenem^{tes} the laſte yeare but howe muche his woorkmanſhipp and the pl*aintiffes* Stuffe came vnto or was woorthe he knowethe not nor can eſtimate for that he did not viewe the ſame. And more he Cannot depoſe./

9./ To the ixth Jnterro*gatory* this depon*e*nt ſaythe he did not knowe the houſes and tenem^{tes} before and at the tyme that the ſaid James Burbage tooke them by leaſe of the defend*an*t Allen, nor in what ſtate of repa*r*acions they weare then concerninge the Suffytiencie of the Buyldinge*s*: But ſaythe he hath knowne the houſes and tenem^{tes} theſe tenne or eleven yeares and ſaythe that they are now in as good and Suffytient repa*r*acions as they weare at the firſte tyme of his this depon*ent*es knowledg and haue bene continewallie ſynce then kepte in repa*r*acions by the ſaid

James Burbage in his lyffe tyme and ſynce his deceaſe by the Compl*ainant*, for he this depon*ent* hath earned of James burbage before he Died for rep*ara*cions done in and about thoſe tenem^{tes} twentye mark*es* or there about*es*: And this depon*ent* ſaythe he hath hard diu*erſe* ould men and woemen ſaye that when the ſaid James Burbage tooke the ſaid houſes and tenem^{tes} of the defendt Allen they weare houſes of Offyce as A Slaughter houſe and Brewe houſe and lowe paulterye buyldinge*s*. And that the ſame are nowe muche better then they weare and lett for more Rent then they weare woorthe. wch happenethe by reaſon of the rep*ara*cions and alterac*i*ons Donne vnto them by the ſaid James Burbage and the nowe Compl*ainan*t./ And more he Cannot depoſe/

10/ To the xth Jnterr*ogatory* this Depon*ent* ſaythe that he knowethe the ould Barne menc*i*oned in the Jnterr*ogatory*, But that Richard*es* and Staughton menc*i*oned in the Jnterr*ogatory* did dwell in the ſame he knowethe not, nor that the ſame Barne was ruynous and decayed when James Burbage had his leaſe of the p*re*miſſs from the defend*an*t Allen for yt was demiſed vnto James Burbage before this depon*ent* was acquainted wth the p*re*miſſs: But when he this depon*ent* firſte knewe yt he rememberethe the ſame Barne was ſhored vppe wth twoe or three Shores from the Playhouſe Called the Theater: And ſaythe that wthin this ten or Eleven yeares the ſaid James Burbage and the nowe Compl*ainant* hath from tyme to tyme repayred and kepte the ſame Barne to there beſte endevor and the ſame is nowe in reaſonable good repayre./ And more he cannot depoſe to his nowe remember*ance* touchinge the ſaid Jnterr*ogatory*

11. 12/ To the xjth and xijth Jnterr*ogatories* this depon*ent* is not examyned at the pl*aintiffes* requeſte./

[His mark] ⌐

Thomas Oſborne of the p*ariſhe* of ffanchurche London Carpenter of the Age of ffortye twoe yeares or there about*es* ſworne and examyned the Daye and yeare abouеſaid Depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this depon*ent* ſaythe he knowethe the Compl*ainant* and defend*ant* and hath knowne the Compl*ainant* theſe eighteene yeares or thereabout*es* and the defend*ant* but A whyle./ And ſaythe that he did very well knowe James Burbadge deceaſſed mencioned in the Jnterr*ogatory* father of the Compl*ainant* And that he did many tymes woorke for the ſaid James Burbadge about his houſinge and buyldinge*s* at Holliwell./ And more he Cannot depoſe./

2/3/4/ To the ſecond, third, ffourthe, ffyfte, Syxte, Seaventhe and 5/6/7/8/. Eight Jnterr*ogatories* this depon*ent* is not examyned at the requeſte of the pl*aintiff*./

9./ To the nynthe Jnterr*ogatory* this depon*ent* ſaythe he did not knowe the tenem^{tes} (nowe in the Compl*ainantes* poſſeſſion) before and at the tyme they weare takne by the ſaid deceaſſed James Burbadge of the nowe defend*ant*: but ſaythe that he knewe them for Eightene yeares paſte at wch tyme the ſaid James Burbadge had them in poſſeſſion./ and that then the tenem^{tes} weare in greate ruyne and wanted rep*ara*cions and ould buyldinges And the ſaid James Burbadge did about the tyme aforeſaid viz ſeaventeene or eighteene yeares agoe buyld his owne dwellinge houſe Almoſte all newe from the grounde and altered and Amended diu*erſe* other tenem^{tes} wch he hadd there in his poſſeſſion but what eſtate he hadd in the ſame he knowethe not Certaynlye, but hath hard that he had A leaſe th*er*of from the defendt And that he the ſaid James Burbadge was to beſtowe A certayne ſome of money vppon ſuche tenem^{tes} as he had takne: And this depon*ent* ſaythe that the ſaid James Burbadge in his lyffe tyme did buyld repayre and Amend diu*erſe* of the tenem^{tes} wch he held, and beſtowed muche Coſte vppon them and made them muche better then they weare before and ſoe they are nowe./ but howe the rent is improued thereby he knowethe not./ And ſaythe he knoweth the ſame to be true for that he did woorke manye tymes wth the ſaid James Burbadge and dwelled neare vnto him and did ſee that he beſtowed muche coſte vppon and about the tenem^{tes} And more he Cannot

depoſe touchinge the ſaid Jnterr*ogatory* to his nowe remembe*r*ance./

10/ To the xth Jnterr*ogatory* this depon*e*nt ſaythe that he well remembrithe the decayed longe Barne p*ar*cell of the p*re*miſſs in the tenure and poſſeſſion of the ſaid James Burbadge wch Barne he remembrithe was eighteene yeares paſte reddye to haue ffallen downe. And the ſaid James Burbadge did then cauſe the ſame Barne to be ſhored vpp, grouncelled, Croſſe beamed, dogged togeather And ſoe ſtrengthned and repayred yt from tyme to tyme duringe his lyffe tyme wch he knowethe to be true for that he this depon*e*nt did healpe to doe the ſame and did often woorke vppon that Barne and other the tenem^*tes*^ of the ſaid James Burbadges by the ſaid James Burbadge his appoyntment and at his Coſte./ But that Richard*es* and Staughton menc*i*oned in the Jnterrogatory did dwell there this depon*e*nt remembrithe not, nor knowethe what rep*ar*ac*i*ons the nowe Compl*ai*n*a*nt hath done vppon the p*re*miſſes ſynce the deathe of his father James Burbadge./ And more he cannot depoſe.

11/ To the xj^th^ Jnterr*ogatory* this depon*e*nt ſaythe that he was p*re*ſent at A viewe and eſtimate made of ſuche dwellinge houſes or tenem^*tes*^ as weare erected and buylte, (and other Coſt*es* beſtowed vppon the ſame dwellinge houſes and tenem^*tes*^) by the ſaid James Burbadge in his lyffe tyme: wch viewe was takne as he nowe remembrithe the Eighteenthe daye of Julye one thouſand ffyve hundred Eightie Syxe by one Brian Ellam, John Grigg*es*, Will*i*am Bothan, William Clarke Richard Hudſon and him this depon*e*nt: menc*i*oned in the Jnterr*ogatory*/ vppon wch viewe yt did appeare vnto him this depon*e*nt and the parties aforeſaid that the ſaid James Burbadge had w^th^in ffoure or ffyve yeares before that viewe beſtowed vppon the houſes and tenementes (wch weare (by reporte) demiſed vnto him by the defend*ant*) the ſome of twoe hundred and ffortye pound*es*./ And ſaythe that he this depon*e*nt wth the reſte of the viewors did in one of the ſaid James Burbadge his book*es* of accompt*es* ſee A remembr*a*nce of that viewe

and eſtimate ſett downe in wrightinge vnto wch they the ſaid viewors Subſcribed and ſett to there mark*es* for better confirma*c*ion thereof And ſaythe that the ſame was A true and Jndyffer-ent ſurveye takne by the p*ar*ties aforeſaid, And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe remembr*a*nce but referrithe him ſelfe to the booke of Accompte where the ſame will more playnlie Appeare./

12./ To the xijth Jnterr*ogatory* this Depon*e*nt ſaythe that at the viewe takne the eighteenthe of Julye one thouſand ffyve hundred Eightie Syxe he remembrythe he did heare the ſaide Brian Ellam, Wil-li*a*m Bothan and Will*ia*m Clarke affirme and ſaye that they had takne A former viewe of m^{r} James Burbadge his buyldinge*s* and Coſte*s* bestowed vppon the p*re*miſſs, wch viewe they ſaid they made about the twentythe daye of Nouember in the yeare of ou^{r} lord god one thouſand ffyve hundred Eightie ffyve and that they had Confirmed the ſame vnder theire hande*s* in A booke of Accompte of the ſaid m^{r} James Burbadge And that then the ſame Came but to twoe hundred and twentye pounde*s*, And that he thinkethe yt could be no leſſe for that yt ſeemed there had bene greate coſte beſtowed vppon and about the ſame by the ſaid m^{r} James Bur-badge And for that they whoe weare viewors thereof weare woorkemen of good Judgment in buyldinge and had wrought vppon the ſame for the ſaid James Burbadge at his Charge. And more he Cannot depoſe to his nowe rememberance./

[Signed] Thomas Oſborne.

William ffurnis of the p*ar*iſhe of S^{ct}: Leonarde*s* in Shorditche in the Countye of Midd*leſex* laborer of the Age of ffyftie Eight yeares or there about*es* ſworne and examyned the daye and yeare abouеſaid depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this Depon*e*nt ſaythe he knowethe the Compl*ainan*t and defend*an*t and hath knowne the Compl*ainan*t about Eighteene yeares and the defend*an*t but A whyle, And

ſaythe he did knowe James Burbadge (the Compl*ainantes* fath*er*) now deceaſſed./

2/.3/4./
5/6./ To the ſecond, third, ffourthe, fyfte and Syxte Jnterr*ogatories* this depon*ent* is not examyned at the requeſte of the pl*aintiff*./

7./ To the vijth Jnterr*ogatory* this depon*ent* ſaythe that the deceaſſed James Burbadge did in his lyffe tyme for diu*er*ſe years duringe his terme diſburſe and beſtowe muche money about the rep*ar*-acc*i*ons of the tenem^{tes} wch he held of the defend*ant* and he thinkethe to the valwe of twentye pound*es* and better. And that he knowethe the ſame to be true for that he this depon*ent* hath bene his tenant theſe ſeaventeene or eighteene yeares and hath ſeene the ſaid James Burbadge and the nowe compl*ainant* ſynce his deceaſe eu*er*ye yeare beſtowe ſome Coſte in repayringe and mayntayninge in rep*ar*ac*i*ons the ſaid tenem^{tes}./ Demiſed vnto him by the defendt wth his manſion houſe wch he lykewiſe beſtowed greate coſte on, in newe buyldinge: and adioyninge another newe buylte houſe vnto yt. And more he Cannot depoſe ſaue onlye that he hath bene laborer there and ſerved the woorkmen when the ſaid ould tenem^{tes} haue bene repayringe././

8./ To the viijth Jnterr*ogatory* this depon*ent* ſaythe that the nowe Compl*ainan*t Cuthbert Burbadge hath yearlye ſynce the deathe of his ffather James Burbadge beſtowed muche money in repayringe of the ſaid ould tenement*es,* And this laſte yeare kepte one man at woorke in repayringe the ſaid ould tenem^{tes} ffyve dayes, and after him an other Syxe weekes, and one other after hime ffyve dayes more wch this depon*ent* thinkethe Coſte the ſaid Compl*ain-an*t about nyne pound*es* woorkmanſhipp and Stuffe./ all wch he this depon*ent* beinge tenant there and dwellinge in thoſe rent*es* did ſee and therefore knowethe the ſame to be true And more he Cannot depoſe./

9./ To the nynthe Jnterr*ogatory* this depon*ent* ſaythe he did not knowe the ſaid tenem^{tes} when the ſaid James Burbadge tooke the

ſame of the defendt nor before./ but ſayth that eighteene yeares paſte or there about he this depon*en*t came thyther to dwell: ſynce wch tyme he hath knowne the ſame, and ſaythe that when he this depon*en*t firſte knewe the ſame the ſaid tenem^tes^ weare very ould and houſes of office, and his owne dwellinge houſe was but ruynous and ould buyldinge and the ſaid James Burbadge did buyld his owne houſe newe and an other nexte vnto yt and repayred and Amended the other buyldinge*s* wch weare houſes of office before, and converted them to tenem^tes^ and made them tenantable whereby the ſame are bettered and are lett for more rent then they then went: for moſte of wch alterac*i*on and coſte beſtowed there, was donne ſynce he this depon*en*t came thither to dwell as tenant to the ſaid James Burbadge. And therefore knowethe the p*re*miſſs to be true/ And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe remembe*r*ance./

10/ To the xth Jnterr*ogatory* this depon*en*t ſaythe that when he this depon*en*t came to dwell in the ſaid James Burbadge his rente*s* the decayed longe Barne menc*i*oned in the Jnterr*ogatory* was in as greate decaye as yt is nowe, for yt ſtoode then Shored vpp againſte the playhouſe called the Theater and nowe yt is but ſhored vpp from the ground, and the deceaſſed James Burbadge did in his lyffe tyme from tyme to tyme repayre the ſame and ſoe hathe the Compl*ainan*t ſynce his deceaſe./ but he remembrythe not that Richard*es* and Staughton menc*i*oned in the Jnterr*ogatory* had the tenure thereof. And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe rememberance./

11/12/ To the Eleventhe and tweluethe Jnterr*ogatories* this depon*en*t is not examyned at the requeſte of the Compl*ainant*./

[His mark] X

William Smythe of Waltham Croſe in the Countye of Hartforde gent*leman* of the Age of ffortye yeares or thereaboute*s* ſworne and examyned the daye and yeare abouefaid Depoſithe and ſaythe

1/ To the ffirſte Jnterr*ogatory* this depon*e*nt ſaythe he knowethe the Compl*ainan*t and Defend*an*t, and hath knowne the Compl*ainan*t theſe ffyfteene yeare or there about*es* and the defend*an*t but about three yeares And ſaythe that he did knowe James Burbadge menc*i*oned in the Jnterr*ogatory* nowe deceaſſed./

2./ To the ſeconde Jnterr*ogatory* this depon*e*nt ſaythe he hathe ſeene An Jndenture of Leaſe whereby yt appeared that the defendt and Sara his wyffe did about the thirteenthe daye of Aprill in the eighteenthe yeare of her ma:^{tes} raigne that nowe is demiſe vnto him the ſaid James Burbadge Certayne garden ground*es* lyinge and beinge in Hollywell in the p*ar*iſhe of S^{t}: Leonard*es* in Shorditche in the Countye of Midd*leſex* for the terme of one and twentye yeares yealdinge and payinge therefore yearlye duringe the ſaid terme ffoureteene pound*es* p*er* Ann*um* wth pr*o*uiſoe in the ſame leaſe that the defendt wthin or at thend and terme of the firſte ten yeares in the ſaid Leaſe he the ſaid defendt ſhould make him the ſaid James Burbadge or his Aſſignes A newe leaſe for one and twentye yeares then to Com*m*ence at thend of the ſaid firſte tenn yeare graunted him in his ſaid Leaſe of the date of the Thirteenthe of Aprill in the Eighteenthe yeare of her ma:^{tes} Raygne aforeſaid: And ſaythe that he remembrythe not the feu*er*all Couenant*es* compriſed in the ſaid Leaſe made vnto the ſaid James Burbadge. but for Certentye thereof referrithe him ſelfe vnto the ſaid leaſe now expired and remayninge in the Compl*ainantes* Cuſtodye And more he Cannot depoſe to his nowe remembe*r*ance./

3./ To the thirde Jnterr this depon*e*nt ſaythe he hathe harde the defendt diuerſe and manye tymes Confeſſe that the ſaid James Burbadge did in his lyffe tyme and before thende of the firſte Terme of Tenn yeares (menc*i*oned in the ſaid firſte leaſe) require him the ſaid defend*an*t to make vnto him the ſaid James Burbadge A newe leaſe of the ſaid p*re*miſſs accordinge to the purporte and effecte of the Couenant menc*i*oned in the ſaid former leaſe, And that he hard the defendt confeſſe that James Burbadge aforeſaid

did tender vnto him the defendt A newe leaſe reddye wrytten and ingroſſed reddye to Seale accordinge [to] the couenant*es* and p*ro*uiſoes conteyned in the firſte leaſe And he the defendt vppon the ſame tender aſked the ſaid James Burbadge and the ſcriveno^{r} (whoe brought the ſame leaſe wth them reddye to be Sealed) yf they would geue him leaue to aduiſe of yt. wh*er*vppon they Anſwered no, then ſaid the ſaid defendt yf you will not geue me leaue I will take leaue and took the ſaid leaſe and ſynce then kepte yt in his owne poſſeſſion, and never Sealed the ſame. And that he knowethe the ſame to be true but from the ſaid defend*antes* owne reporte. And more he Cannot depoſe.

4./ To the ffourthe Inter*rogatory* this Depon*e*nt ſaythe that he knowethe the Compl*ainan*t did about twoe yeares nowe laſte paſte or there about*es* and diu*er*ſe tymes ſynce then, require the ſaid defendt to make him A new Leaſe of the p*re*miſſs accordinge to the Agreem^{t} menc*i*oned in the ffirſte leaſe, but the Defendt denied to make him any ſuche leaſe, alledginge that the p*re*miſſs weare not bettered by James Burbadge accordinge to his Couenant, and that there weare Arerages of Rent behinde and vnpayde wch the ſaid James Burbadge did owe in his lyffe tyme./ But the defendt did tender the Compl*ainan*t A newe leaſe of the p*re*miſſs wth Jmprouem^{t} of the rent and very ſtricte and vnreaſonable Couenant*es* Contrarye to the Agreem^{t} and the Couenant*es* in the firſte leaſe made to James Burbadge, for wch Cauſes the pl*aintiff* refuſed the ſame./ And more he Cannot depoſe touchinge the ſame Jnter*rogatory* But for more Certentye thereof referrathe him ſelfe to the ſame draught remayninge wth the defendt./

5./ To the ffyfte Jnter*rogatory* this depon*e*nt ſaythe that he knowethe the ſaid Compl*ainantes* mother did geue her Conſent that the pl*aintiff* ſhould take downe, and Carrie Awaye the Tymber and ſtuffe Jmployed for the Theater or playhouſe in the Bill menc*i*oned for ſhee was there and did ſee the doinge thereof and lyked well of yt and did alowe thereof. And more he Cannot depoſe./

6./ To the Syxte Jnterr*ogatory* this depon*ent* ſaythe he hath hard the defendt and the ſaid deceaſſed James Burbadge ſaye that longe ſynce there was Controu*er*ſie betweene the ſaid defendt and one Edmonde Peckham menc*i*oned in the Jnterr*ogatory* for and touchinge the tytle of the p*re*miſſs by reaſon whereof the ſaid James Burbadge reported that he was muche hindered and could not haue the vſe of the p*re*miſſs quietlye but was ſayne to ſynde men at his owne Charge to keepe the poſſeſſion thereof from the ſaid Peckham and his ſ*er*vant*es*:/ And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory*:/

7./ To the vijth Jnterr*ogatory* this depon*ent* ſaythe he hath ſeene ſome of the deceaſſed James Burbadge his book*es* of accompt*es* in wch he hath ſeene twoe ſeu*er*all ſurveies made by ſeu*er*all woorkemen whoſe names are ſett downe to the ſaid ſurveies in the ſaid book*es* whereby yt appeareth that the ſaid James Burbadge did in his lyffe tyme beſtowe vppon the p*re*miſſs the ſome of twoe hundred and odd pound*es* accordinge to his Couenant beſid*es* his yearlye expence in gen*er*all repayre of the p*re*miſſs: vnto wch book*es* for further and more certentye of the truthe therein, he referrethe him ſelfe./ wch book*es* are in the pl*aintiffes* poſſeſſion./ And more he Cannot depoſe./

8./ To the viijth Jnterr*ogatory* this depon*ent* ſaythe that ſythence the deceaſe of the Compl*ainantes* ffather he the Compl*ainant* hath yearlye beſtowed ſome Coſt*es* about the repayringe of the p*re*miſſs, and this laſte yeare to this Depon*ent*es owne knowledge & ſynce the removeinge of the Theater he the Compl*ainant* hath beſtowed in repayringe the p*re*miſſs the ſome of ten pound*es* or neere there about*es*. And more he Cannot depoſe./

9./10/ To the nynthe tenthe, Eleventhe and tweluethe Jnterr*ogatories*
11./12./ this depon*ent* Can ſaye nothinge more then he hathe all reddye depoſed to his nowe remembe*r*ance./

[Signed] William Smythe

Randulphe Maye of the p*ar*iſhe of S^{ct}: Leonard*es* in Shorditche in the Countye of Midd*le*ſ*ex* Paynter of the Age of threeſcore yeares or there about*es* ſworne and examyned the daye and yeare abouеſaid Depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this depon*ent* ſaythe he knowethe the Compl*ainan*t and defendt and did knowe James Burbadge the Compl*ainantes* ffather./

2/.3./4/5/ To the ſeconde, third, ffourthe and ffyfte Jnterr*ogatories* this depon*ent* is not examyned at the requeſte of the pl*aintiffes*

6./ To the vjth Jnterr*ogatory* this Depon*ent* ſaythe he well remembrithe that about eighteene yeares nowe paſte there weare ſuyt*es* betweene the defendt Allen and one EdmondePeckham touchinge the tyttle of the Theater and land*es* in the deceaſſed James Burbadge his poſſeſſion and by reaſon thereof the ſaid James Burbadge was muche hindered and trobled and was often Charged to ffynde men to keepe the poſſeſſion of the p*re*miſſs in Controu*er*ſie betweene Allen and Peckham and was once in danger of his owne lyffe by keepinge poſſeſſion thereof from Peckham and his ſervant*es*./ And could not enioye the p*re*miſſs peacablie and Quyettlye according to his leaſe. And that he knoweth the ſame to be true for that he was then there. A ſervant in the houſe Called the Theater And knoweth that the ſaid James Burbadge loſte muche money by that controu*er*ſie and troble for yt drove manye of the players thence becauſe of the diſturbance of the poſſeſſion And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe rememberance./

7./8./ To the vijth and viijth Jnterr*ogatories* this depon*ent* is not examyned at the requeſte of the pl*aintiff*./

9./ To the nynthe Jnterr*ogatory* this depon*ent* ſaythe he did knowe the tenem^{tes} wch weare vppon the ground*es* demiſed vnto the ſaid James Burbadge when he firſte had them demiſed vnto him by the

defend*ant*, And ſaythe that then they weare very ſymple buyld-inge*s* but of twoe ſtoryes hye of the ould faſhion and rotten, ſoe that after the ſaid James Burbadge had them in leaſe he was fayne to pull downe ſome of them and newe buyld them for his owne dwellinge and to repayre the reſte to his greate Charge to keepe them vpp: And they are nowe better then they weare when he tooke them by leaſe and worthe more rent then they weare then for the ſaid James Burbadge was fayne to deuide them and Contrive them fytt for dwellinge*s* where they before weare ould houſes of office and ſome of them open that Roges and beggers harbored in them./ And more he cannot depoſe to his remem-b*er*ance./

10/ To the xth Jnterr*ogatory* this depon*ent* ſaythe that when the ſaid James Burbadge tooke the p*re*miſſs by leaſe from the deffe*ndant* there was A decayed longe Barne p*ar*cell of the p*re*miſſe*s* de-miſſ*ed* vnto him ſomtymes in the tenure of Richard*es* and Stoughton menc*i*oned in the Jnterr*ogatory* wch Barne was then very ruynous and decayed ſoe as the ſame was fayne to be ſhored vpp vnto the Playhouſe Called the Theater when yt was buylt, And the ſaid James Burbadge and the nowe compl*ainant* hath ſynce the firſte takinge of yt beſtowed greate coſt*es* vppon yt and deuided yt and kepte yt vpp w^th^e rep*ar*ac*i*ons, els he thinkethe yt had fallen downe ffyfteene yeares Agoe./ And that he thinkethe yt is rather better then worſe then yt was when the pl*aintiffes* fath*er* tooke yt wth the reſte of the p*re*miſſs in Leaſe./ And more he Cannot depoſe to his remembe̲rance./

11/12/ To the xj^th^ and xij^th^ Jnterr*ogatories* this depon*ent* is not ex-amyned at the requeſte of the pl*aintiff*./

[Signed] Randovlph May

Oliver Tylte of the p*ar*iſhe of S^ct^: Buttolphes London yoeman of the Age of ffortye Eight yeares or there about*es* ſworne and ex-amyned the daye and yeare abouefaid depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this Depon*ent* ſaythe he knowethe the Compl*ainan*t and Defend*an*t and did knowe James Burbadge the Compl*ainantes* father nowe deceaſſed./

2/3/4/5/ To the ſecond, third, ffourthe, and ffyfte Jnterr*ogatories* this Depon*ent* is not examyned at the requeſte of the pl*aintiff*

6./ To the vjth Jnterr*ogatory* this Depon*ent* ſaythe that he remembrith that about Eighteene yeares ſynce there was great varience and Controu*er*ſie betweene the defendt Gyles Allen and one m^{r} Peckham touchinge the tytle of the Playehouſe called the Theater: and ſaythe that when the ſaid Contrau*er*ſie was betweene m^{r} Allen and m^{r} Peckham James Burbadge the Compl*ainantes* father did paye him this depon*ent* and others wages for keepinge the poſſeſſion of the Theater from the ſaid m^{r} Peckham and his ſ*er*vant*es* whereby he ſaythe he verelye thinketh that the ſaid James Burbadge was at great Charge:/ for he payde men wages for keepinge poſſeſſion ſoe longe as the contrau*er*ſie was betweene m^{r} Allen and m^{r} Peckham and m^{r} James Burbadge was muche diſturbed and trobled in his poſſeſſion of the Theater and Could not Quietlye and peaceablie enioye the ſame./ And therefore the players for ſooke the ſaid Theater to his great loſſe./ And more he Cannot depoſe./

7./ To the vijth Jnterr*ogatory* this depon*ent* ſaythe that before the ſaid Theater was buylded he this depon*ent* did dwell in A tenem^{t} of the ſaid James Burbadge. And knowethe that the ſaid James Burbadge duringe his tyme did repayre the tenem^{tes} he held of m^{r} Allen often and many tymes and beſtowed muche Coſte vppon them: but the valewe he knowethe not./ And more he Cannot depoſe/

8./ To the viij.th Jnterr*ogatory* this depon*ent* is not examyned at the requeſte of the pl*aintiff*

9./ To the ixth Jnterr*ogatory* this depon*ent* ſaythe that he did knowe the tenem^{tes} before and at the tyme they weare taken by James

Burbadge of m^r^ Allen, And ſayth that when he tooke them of m^r^ Allen they weare all very ould buyldinge*s* and of meane buyldinge and the ſaid James Burbadge after he tooke the p*re*miſſs did re-edefie ſome of the houſes and beſtowed greate coſte*s* vppon the ſame, And ſaythe that nowe the ſayde houſes and tenemente*s* are A great deale better then they weare when James Burbadge tooke them of Mr Allen, And are nowe lett for more Rent then they weare then rented for. And knowethe the ſame to be true for that he dwelled there when m^r^ James Burbadge tooke them, And more he cannot depoſe./

10/ To the xth Jnterr*ogatory* this depone*n*t ſaythe that there was vppon the p*re*miſſs when m^r^ James Burbadge tooke the p*re*miſſs of m^r^ Allen one longe decayed Barne p*ar*cell of wch was ſom-tymes houlden for A barne Roome by one Richardſon dwellinge in Coleman ſtreet London, and oth*er* p*ar*te thereof houlden for A Slaughter houſe by one Stoughton, wch Barne when the ſaid Burbadge tooke yt wth the p*re*miſſs was very Ruynous and de-cayed and ſoe weake that the ſaid Burbadge was fayne to Shore yt vpp vnto the playhouſe Called the Theater when it was buylte, And ſaythe that James Burbadge did in his lyffe tyme from tyme to tyme repayre and Amende the ſame to keepe yt vpp, for when he tooke yt yt was lyke to haue ffallen downe and was ſoe weake as when A greate wynd had Come the tenant*es* for feare haue bene fayne to goe out of yte./ wch he knowethe to be true for that then he was A tenant in the ſame And more he Cannot depoſe./

11/12/ To the xj^th^ and xij^th^ Jnterr*ogatories* this depone*n*t is not ex-amyned at the pl*aintiffes* requeſte

[His mark] **T**

Idem. Depositions ex parte Burbage, 23 May, 1600.

INTERROGATORIES

[In dorso]
T*ermino* Trin*itat*is
xlij^do^ R*egni* R*egi*ne
El*izabethe./*

[Note on upper left corner:]
the defend^{tes} wyttneſes ^{to}
be examyned on theſe./

Interrogatories myniſtred to the witneſſes produced by the defend^{t} to be examyned on the parte of the Comp^{l} againſt the ſaid defend^{t}

1 Item haue yo^{w} heard the ſaid Defend^{t} at any tyme demaunde of the ſaid Compl*ainant* the ſom*m*e of Thirtye poundes p*r*etended to be due for arrerages of rente by James Burbadge the Compl^{tes} father, and whether did the Compl*ainan*t Confeſſe the ſame to be due, and promiſed to make paym^{t} thereof, vppon what Conſideracion did the pl*aintiff* make ſuche promiſe to paye the ſame, where when and vppon what occaſion was that promiſe made and whoe were preſent thereat beſid*es* yor ſelf

2 Item whether haue yo^{w} at any tyme heard the Compl*ainant* entreate the ſaid Giles Allen to make him a newe leaſe of the p*re*miſſes nowe in queſtion & when wher, at what tyme and how longe ſince were any ſuch ſpeeches vſed & who were then preſent ther wth you What Anſweare did the ſaide Defend^{t} giue to the ſaid Compl*ainant,* Did not the Defend^{t} deferr the makinge of the ſaid leas from tyme to tyme, what was the meaninge or intente of him the ſaid defend^{t} therein, And did not the ſaid Defend^{t} by his owne appointm^{t} Cauſe A paper booke of A leaſe to be drawne vpp, and did the ſaid Compl*ainant* agree or accepte of the ſame Draughte, if not what was the occaſion that there was no agreem^{t} betwene them Declare the truth of yor knowledge herein at large and how yo^{w} knowe the ſame.

3 Item Doe yo^{w} knowe or haue yo^{w} Crediblie hard that there weare ſpeeches of A newe agreem^{t} had betwene the Defend^{t} and the ſaid James Burbage a little before the deathe of the ſaid James that hee the ſaid James ſhould haue A newe leas of the p*r*emiſſes Conteyned in the former leas for the tearme of one and twentye yeares to begynne after thende and expirac*i*on of the former

leas, for the yerelie rente of xxiiij^{li} was the ſaid agreem^{t} Concluded on betwene the Defend^{t} and the ſaid James Burbadge, and whoe was p*refe*nte at the ſame agrement (if any ſuche were) what reaſon had the ſaid James Burbadge to agree to giue Tenne pound*es* a yere more rent for the ſaid p*re*miſſes then he did in the former leas, Declare yor knowledge herein and the reaſon that moued the ſaid James to make ſuche agreem^{t} (if any weare) vppon yor oathe.

4 Doe yo^{w} knowe that at or about*es* the tyme aforeſaid there were ſpeeches of agreem^{t} had betwene the Defend^{t} and the ſaid James Burbadge that the Theater ſhould Contynue for A playinge houſe for the ſpace of ffyve yeres onelie after thexpirac*i*on of the firſte terme and not longer, and that after the ſaid ffyve Yeres ended, yt ſhould be Converted by the ſaid James and the nowe Compl*ainant* or one of them to ſome other vſe and be ymployed vppon the groundes demiſed wherebie the benefitt and proffitt therefor after that terme ended ſhould remayne to the defend^{t} weare the ſame ſpeeches agreed and Concluded vppon betwene the defend^{t} and the ſaid James Burbadg, what perſons were p*re*ſente at that tyme, What reaſon had the ſaid James Burbadge to allowe of any ſuch agreem^{t} (if any weare) and did not the ſaid parties breake of theire Agreem^{t} againe becauſe theie could not agree of ſuerties, or what was then done touchinge the ſame agreem^{t} betwene them Declare yor knowledg to eu*er*ie pointe of this Interrogatory at large.

DEPOSITIONS

Depoſition*es* Capt*ae* ap*u*d weſtm*onaſterium* xxiij^{tio} die Maij A° Regni D*omi*ne R*egi*ne Elizabethe nunc &c Quadrageſimo Secundo ex p*ar*te Cuthberti Burbadge gen*eroſi* q^{rtis} v*erſus* Egid*iu*m Allen gen*eroſum* defend*entem*./

Henry Johnſon of the p*ar*iſhe of S^{ct}: Leonard*es* in Shorditche in the Countye of Midd*lesex* Sylkweaver of the Age of ffyftye

yeares or there about*es* ſworne and examyned the Daye and yeare abouеſaid Depoſithe and ſaythe

1/ To the ffirſte Jnterr*ogatory* this Depon*ent* ſayth he hath hard the Defend^{t} aſke and demaunde of the Compla*inant* the ſome of thirtye pound*es* pr*e*tended to be dwe for Arerages of Rent by the deceaſſed James Burbadge And hath hard the Compla*inant* confeſſe the ſame to be dwe and pr*o*miſed to make paym^{t} thereof vnto the Defend*ant* in Conſider*a*cion he the Defend*ant* would make him the pl*aintiff* A leaſe for one and twentye yeares of the houſes and ground*es* wch his late father held of him before in leaſe, And in Conſider*a*cion he the Defendt would p*er*mitt the houſe Called the Theater to ſtand for A playinge houſe for the firſte ffyve yeares of the newe leaſe wch the Defendt was contented to doe. And the ſame pr*o*miſe was made vnto the Defendt at the Sygne of the George in Shordytche about Michaellmas laſte was tweluemonethe in this Depon*ent*es pr*e*ſent*es* and the pr*e*ſent*es* of one John Golborne:/ And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe remember*a*nce./

2/ To the ſeconde Jnterrogatory this Depon*ent* ſaythe he knoweth that the Compla*inant* hath many tymes labored and intreated the Defendt to make him a newe leaſe of the pr*e*miſſs in Queſtion for this Deponnt ſaythe that many tymes when the defendt hath Come vpp to London to receave his Rent*es* he this depon*ent* hath bene wth him payinge him certayne Rent and then he hath ſeene the pl*aintiff* wth his Landlord payinge his Rent lykewiſe and then fyndinge oportunytie the pl*aintiff* would be intreatinge the Defendt to make him A newe lease of the pr*e*miſſs in Queſtion and ſaythe yt is at leaſte three yeares ſynce he this depon*ent* firſt hard the pl*aintiff* labor and intreate the defendt for A newe leaſe and that yt was at the ſygne of the George in Shordytche that the Defendt laye when he came to london to receave his rent*es* and there the pl*aintiff* Solicited him for A newe leaſe./ and the ſaid Goulborne hath bene there pr*e*ſent and hard the ſame aſwell as he this depon*ent*: And the defend*ant* from tyme to tyme deferred

the makinge of any newe leaſe ſayinge vnto the pl*aintiff* paye me tharrerages of rent wch yor father owght me when he died and p*er*forme the Couenant*es* that yor fath*er* p*er*formed not in his lyffe tyme And then wee will talke of A newe leaſe: And that he thinkethe the Defendt deferred the makinge of A newe leaſe vnto the pl*aintiff* of purpoſe to drive him to Augment his rent p*er* Ann*um* And to drive the pl*aintiff* to paye the thirtye pound*es* he claymed for Arerages and p*er*formance of oth*er* couenant*es* And this Depon*ent* ſaythe he hath hard that the Defendt did appoynte and cauſe A pap*er* Booke of A leaſe to be drawne vpp But the Compl*ainant* did not agree and accepte of that drawght becauſe as the pl*aintiff* reported yt was vnreaſonable penned and drawne and for that the defendt would thereby haue Compelled the pl*aintiff* to haue aſſured the improued rent to Contynewe after thexpiracion of his leaſe then to Com*m*ence and contynewe for one and twentye yeares. And more he cannot depoſe touchinge the ſaid Jnterr*ogatory* for that he never Sawe the ſaid Draught menc*i*oned in the Jnterr*ogatory*

3. To the third Jnterr*ogatory* this Depon*ent* ſaythe he knowethe that the Deceaſſed James Burbadge was in his lyffe tyme A lyttle before his Deathe an earneſt ſutor vnto the defendt for the obtayninge of A newe leaſe of the p*re*miſſs: And ſaythe that there weare diu*er*ſe ſpeeches betweene the defendt and the ſaid James Burbadge touchinge A newe leaſe of the premiſſs (conteyned in his former leaſe) for the terme of one and twentye yeares to com*m*ence after thexpiracion of the former leaſe for the yearlye rent of twentye ffoure pound*es*: but he knowethe not that the ſaid ſpeeches weare agreed and Concluded vppon betweene the defendt and James Burbadge: And more he Cannot depoſe touchinge the ſaid Jnterr to his nowe rememb*er*ance ſaue onlye that the Defendt ſtill deſired the ſaid James Burbadge yf he would haue A newe leaſe to encreaſe his rent./ otherwiſe he would graunte non

4./ To the ffourthe Jnterr this Depon*ent* ſaythe that he never hard of any ſpeeches of Agreem^{t} betweene the defendt and the de-

ceaſſed James Burbadge touchinge the Contynewance of the Theater for A playinge houſe for the ſpace of ffyve yeares onlye after thexpiracion of the ffirſte Terme and not longer, nor that after that tyme of ffyve yeares ended yt ſhould be converted by the ſaid James Burbadge and the nowe compl*ainan*t or one of them to ſome other vſe and be imployed vppon the groundes demiſed whereby the benefytt and profytt thereof after that terme ended ſhould remayne to the Defendt./ And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* for that he never hard of any ſuche conference as is ſpecified in the Jnterr*ogatory* betweene the ſaid defendt, James Burbadge Deceaſſed and Cuthberte Burbadge in his fath*er*s lyffe tyme but ſuche ſpeeches paſte betweene the nowe pl*aintiff* and Defendt ſynce the deceaſe of James Burbadge the fath*er* but not Agreed vppon for that they brake of becauſe they Could not Agree vppon ſuerties./

[Signed] Henry Johnſon

John Golborne of the p*ar*iſhe of S^{ct}: Leonard*es* in Shordytche in the Countye of Midd*lesex* Marchaunt taylor of the Age of ffortye twoe yeares or there about*es* ſworne and examyned the daye and yeare abouefaid depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this Depon*en*t ſaythe he hathe hard the Defendt demaunde of the pl*aintiff* the ſome of thirtye pound*es* p*re*tended to be dwe for Arrerages of Rent by James Burbadge the Compl*ainantes* father. And vppon the Defend*antes* demaund thereof the Compl*ainan*t hath confeſſed the ſame and yealded to paye the ſame in Conſideracion the Defendt would make him A newe leaſe of the houſes, tenem^{tes} and ground*es* his fath*er* James Burbadge held of the Defendt by A former leaſe in his lyffe tyme. And that the pl*aintiff* vppon occacion of conference wth the defendt of A newe leaſe and in Conſid*er*acion of the defendt*es* p*ro*miſe of A newe leaſe of the p*re*miſſes the Compl*ainan*t at the ſygne of the George in Shoreditche about michaellmas laſte was Tweluemonethe p*ro*miſſed paym^{t} of the ſaid thirtye pound*es* vnto the Defendt, and that then there weare p*re*ſent beſid*es* him this

Deponent one Henry Johnſon and one m^r^ Thomas Nevile./ And more he Cannot depoſe./

2./ To the ſeconde Jnterr*ogatory* this Deponent ſaythe that he hath diuerſe and ſundrie tymes hard the Compl*ainant* entreate the Defendt to make him A newe leaſe of the premiſſs in Queſtion, And that the laſte entreatye that the pl*aintiff* made for the obtayninge of a leaſe of the premiſſs in this deponnt*es* hearinge was at Michaellmas laſte paſte was tweluemonethe and there was then preſent the ſaid Henry Johnſon and m^r^ Thomas Nevile, But the Defendt made the pl*aintiff* this Anſwere vz that he would haue his arerages that he Claymed firſte payde him and then he would conferr wth him about A leaſe and ſoe deferred yt from tyme to tyme And as he takethe yt he deferred the pl*aintiff* becauſe he ment to be payde the Arerages aforeſaid and Converte the Theater from A playinge houſe to ſome other better vſe vppon the grounde./ And ſaythe that he hard that the defendt by his owne appoyntm^t^ cauſed A pap*er* booke of A leaſe to be drawne vpp betwene him and the Compl*ainant*, but the Compl*ainant* did not accepte thereof for that (as the plaintiff ſayd) there weare very vnreaſonable couenant*es* therein conteyned And more he Cannot depoſe./

3./ To the third Jnterr this depon*ent* ſaythe that there weare ſpeeches of An Agreem^t^ betweene the Defendt and the Compl*ainantes* fath*er* in his lyffe tyme and a lyttle before his Deathe wch ſpeeches tended to this or the lyke effecte vz that he the ſaid James Burbadge ſhould haue of the defendt A newe leaſe of the premiſſs Conteyned in his former leaſe for the terme of one and twenty yeares to Com*m*ence after thende and expirac*i*on of his former leaſe for the yearlye rent of twenty ffoure pound*es* p*er* Ann*um* wch was ten pound*es* A yeare more then he payde before: but that Agreem^t^ was not Concluded vppon for that the Defendt then Aledged that the ſaid James Burbadge had not beſtowed ſoe muche money vppon buyldinge and repayringe the premiſſs demiſed vnto him as he was bound to bestowe by Couenant: but the pl*aintiffes*

fath*er* aledged that the full ſome was beſtowed accordinge to his Couenant wthin the firſte ten yeares of his firſte leaſe./ And ſaythe that he hard the Compl*ainantes* fath*er* ſaye that he did p*roffer* to geue the defendt the ſaid ten pound*es* A yeare more rent then was reſerved in the ould leaſe for that he would haue the Theater to ſtand for A playinge houſe for one and twentye yeares more whereby he might reape greate p*roffytt* And for that reaſon he p*rofferred* to rayſe his rent ten pound*es* p*er* An*num*./ And more he Cannot depoſe./

4./ To the ffourthe Jnterr*ogatory* this depon*ent* ſaythe that he never hard that the ſaid James Burbadge and the defendt had at any tyme any ſpeeches togeather touchinge the Contynewance of the Theater for a playinge houſe for the ſpace of but ffyve yeares onlye after thexpirac*i*on of his old leaſe: But the defendt would fayne haue had the ſaid James Burbadge to haue Converted the ſaid Theater to ſome other vſe vppon the p*re*miſſes demiſed vnto him: wch the ſaid James Burbadge would not Agree vnto but tould the defendt that he would encreaſe his rent ten pound*es* p*er* Ann*um* yf he might haue his leaſe renewed for one and twentye yeares more after thexpirac*i*on of the ould leaſe and the Theater to Contynewe duringe that tyme for a playinge houſe:/ otherwiſe he would remoue the ſaid Theater from of the p*re*miſſs And take aduantage of the defendt*es* bonde wch he had made him:/ And that after the newe leaſe wch he then entreated for weare expired he or the nowe Compl*ainant* would Converte the ſaid Theater vppon the p*re*miſſs to ſome other vſe for the benefytt aſwell of the defendt as for the leſſee then in poſſeſſion: but vppon all that Conference nothinge was abſolutlie Agreed vppon becauſe the Defendt would not Conſent to ſuffer the ſame Theater to contynewe ſoe longe for A playe houſe And ſaythe that when theſe ſpeeches paſte betweene the defendt and James Burbadge he this depon*ent* the ſaid m^{r} Thomas Nevile and the nowe Compl*ainant* weare p*reſent*: And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* to his nowe rememberance.

[Signed] John Gobvrne

AFFIDAVIT OF GYLES ALLEYN

Court of Requests, Miscellaneous Books, volume 122, 42 Elizabeth (1600).

[This book was found by me in the uncalendared Requests Proceedings, and later handed over to M. S. Giuseppi, Superintendent, on Dec. 7, 1909, to be filed among the Miscellaneous Books. It is a small book of original, signed affidavits, which were later copied into the register of affidavits by some clerk, who thereupon drew a line down through each of the originals. Unpaged.]

2° Junij [A° 42° Eliz., 1600.]

Towching the cauſe at the ſute of Cuthbert Burbage gent pl againſt Gyles Aleyn gent def^t^, the ſayde Gyles Allen maketh othe, that neither he this deponent nor any other for him (to this deponent*es* knowledge) haue had any coppies of or are previe to or acquainted wth the depoſic*i*ons of ſuch witneſſes as haue heretofore been examined in the ſaide cauſe/. And he further depoſeth, that theere are others to be examined on this deponent*es* behalfe who (as this deponent verily thincketh) are materyall witneſſes to be vſed on his p*ar*te viz Richard Parramore eſq^r^ whoſe dwelling place this depont doeth not certenly knowe Robt Vigorus of ye middle Temple London eſq^r^, Thomas Nevill of Bricklefey in the county of Essex gent, Robt myles of ye p*ar*iſh of white chappel w^th^in the ſubvrb*es* of London Innholder & Rafe myles (his ſonne) John Hyde who as this depon^t^ is enformed is of the p*ar*iſh of St Dunſtans in the Eaſt in London grocer & Wm Gall who as this depon^t^ is enformed is of the p*ar*ish of Alhalowes neere gratious ſtreete in London ſcryvener

[Signed] by me Gyles Aleyn

[Entered also, without signature, in Affidavit Register, Requests, Misc. Bks., vol. 121, under above date.]

AFFIDAVIT OF CUTHBERT BURBAGE

Liber idem (a few pages later, unnumbered).

11° Junij [A° 42° Eliz., 1600]

Whearas in the cauſe at the ſute of Cuthbert Burbage gent pl againſt Gyles Allen gent deft, it was ordered the laſt day of May laſt paſt that the ſaide deft his Counſailor, Attorney & ſollicitor ſhould ſurceaſe & ſtay & no further proceede in an accion of treſpas at & by thorder of her mates common lawes, & not cauſe the demurrer there tendred vppon the deftes plea in that ſute to be ioyned vp or entred vntill the hearing of the ſaid cauſe, & other order taken & made to the contrary: The ſaid Cuthbert Burbage maketh othe that hee the ſaid deft hath ſince the ſaid order contrary to theffect thereof cauſed the ſaid demurrer to be ioyned vpp and entered a rule thervppon for this deponent to ſtand to his plea at and by thorder of the Common Lawe

[Signed] Cuth Burbadge

[Entered also, without signature, in Affidavit Register, Requests, Misc. Bks., vol. 121, under above date.

See also suit referred to, Allen *v.* Street, Trinity, 1600, also the next document, the Court's order for arrest of Allen, and Allen's statement on the affair in his Star Chamber suit, Allen *v.* Burbage, 1602, and the examination of Lane, 1602.]

ARREST OF ALLEYN FOR CONTEMPT

Requests Proceedings, Uncalendared, 372.

Vndecimo die Junij Anno *Regni* Rne Elizabethe xlij°/

Quia Egidius Allen contempſit ordinem per Conſilium factam in cauſa inter Cutbertum Burbage generoſum querentem et predictum Egidium Allen Deft Gerentem Datum xxxj die Maij vltimo preterito. Jdeo decretum eſt nunc Breve de Attachiamento fieri directum vicecomiti Comitatus Effexie necnon Hugoni Barbon generoſo ad Attachiandum corpus dicti Egidii retornabile Jmediater &c

per ordinem

[Signed] Jul: Cæſar:
[Master in Court of Requests]

[On lower part of leaf:]
vi*ce*comiti Effexie et
Hugoni Barbon

[For Allen's account of the execution of this order against him, see his suit of Allen *v* Burbage, Star Chamber, 1602, *infra.*]

Court of Requests Proceedings, 87/74. Depositions ex parte Allen, 14 August, 1600.

[These two depositions were taken in the country by commission. The parchments of interrogatories, commission to examiners, and depositions by Robert Vigerous and Thomas Nevill are attached to the three large skins of pleadings in the suit of Burbage *v.* Allen, as already noticed. Halliwell-Phillipps found this set of records, as above mentioned. See his *Outlines,* I, 359.]

INTERROGATORIES

Interrogatoryes to be miniſtered to the witneſſes to be p*ro*duced on the p*ar*te and behalf of Giles Allen gentl*eman* Defend^t^ againſte Cuthbert Burbage Complain*ante*./

1./ Inprimis whether doe you knowe the p*ar*ties Comp^lte^ and Defend^t^ and howe longe haue you knowen them./

2./ It*em* whether was there not an agreament made betweene the Comp^lte^ and the Defend^t^ to this effecte: that the Defend^t^ ſhould make a newe leaſe vnto the Comp^lte^ of the howſes and groundes which were formerlye Demiſed vnto Jeames Burbage ffather of the Comp^lte^ for one and twentye yeares from and after the expirac*i*on of that former leaſe and that the Comp^lte^ ſhould paie yearelye for the ſame the ſom*m*e of foure and twentye pound*es*: And whether was it not likewiſe agreed betweene them that the Theatre there erected ſhould Continue for a playinge place by the ſpace of fiue yeares onelye, and that then it ſhould be Converted to ſom*m*e other vſe for the benifitt of the Comp^lte^ Duringe his terme, and after for the benifitt of the Defend^t^: And whether did not the Comp^lte^ vppon that agreament p*ro*miſe the Defend^t^ to

paie him the fom*m*e of thirtye pownd*es* which was due to the Defend^{t} for rent, and to putt the howſes and buildinges in good repa*r*acions; and howe longe is it ſithence ſuche agreament was made: Deliuer the trueth what you knowe or haue heard herein././

3./ Item whether was it agreed betweene the Defend^{t} and the Comp^{lte} that the Comp^{lte} ſhould take a newe leaſe of the ſaid howſes and groundes for the terme of tenn yeares and that the Comp^{lte} ſhould giue a hundred pownd*es* for the ſaid leaſe: and foure and twenty pownd*es* rente yearelye: or whether was there any ſuche agreament made betweene the Defend^{t} and the ſaid Jeames Burbage Deliuer what you knowe touchinge this Interrogatorye: and at what time any ſuche agreament was made, And by what meanes you had knowledge therof././

[In dorso:]
Quinto die Junij Anno Regni
Regine Elizabethe &c xlij°/
fiant l*itera* dict*e* D*omi*ne Regine direct*e* Roberto Sandford Arthuro Breather et Johanni Sammes generoſis vel duob*us* eor*um* ad examinand*um* omnes teſtes ex p*ar*te Virtute Ordinis Defend*entis* in forma iuris iurand*i* tam de artic*u*lis infraſcriptis quam p*er* p*re*dict*um* defend*entem* miniſtrand*is* et ad certificand*um* eadem in oct*abis* Mich*ael*is p*rox*imis./

[Signed] Jul. Caeſar.

[Addressed to:]
Thomas Alif ar
Arthur Breathes gen

COMMISSION TO EXAMINERS

By the Quene//

Truſtie and welbeloued we grete yo^{u} well. And ſende vnto yo^{u} hereincloſed certen Articles Interrogatories to be miniſtred to the witneſſes on the p*ar*te and behalf of Giles Allen gent*leman* defendaunt againſt Cuthbert Burbage complayn*ant* wherevppon we

truſtinge in yor approued wiſdomes, learninge*s* and Indifferenc*es* will and deſire yo^{u} that by Aucthoritie hereof callinge afore yo^{u} in or name all ſuche witneſſes and pr*o*ves as by the ſaid defendant ſhalbe no*min*ated vnto yo^{u}, ye then do duely ſubſtancyallie examyn them the ſaid witneſſes (by their othes in due forme of lawe ſworne) Not only vppon the conten*t*e*s* of the ſaid Articles hereincloſed. But alſo vppon all ſuche other Articles wch by the ſaid defend^{t} ſhalbe exhibited vnto yo^{u}, Endevoringe yerſelves by all meanes poſſible to ſearche and try out the veritie of the p*re*miſſes by yor ſaid exa*min*acions. And therevppon duely to certifie vs and or Counſaill by yor wrytinge*s* vnder yor ſeales in or Corte of Whitehall at weſtm*in*ſ*ter* in the vtas of St Michael the Archaungell next com*m*ynge, Of the verie true depoſic*i*ons of the ſaid witneſſes likeas yo^{u} ſhall ſynde by yor ſaid exa*min*acions To thintent that we by thadviſe of o^{r} ſaid counſaill may further do therein as the caſe rightfully ſhall requier. Not failinge hereof as ye tender or pleaſure and thadvauncement of Juſtice, Given vnder o^{r} Privie Seale at o^{r} Mannor of Grenewiche the fyveth day of Junie in the xlijth yere of o^{r} Reigne//

[Signed] Tho: Kerry.

[In dorso]

The execution of this Com*m*iſſion appeareth by a Certaine Schedule herevnto annexed.

DEPOSITIONS

Ex p*ar*te Def^{t}

Depositions taken at Kelvedon in the Countye of Eſſex (before vs Arthur Breather and John Sam*m*es Gent*lemen* by vertue of a Com*m*iſſion to vs and others Directed out of her ma^{ties} Honourable Courte of Requeſt*e*s on the p*ar*te and behalf of Giles Allen gent*leman* Defend^{t} againſte Cuthbert Burbage gent*leman* Comp^{lte}) the fourteenth daie of Auguſte in the twoe and fourtith yeare of the Raigne of our Soueraigne Ladye Elizabeth by the grace of God of England ffrance and Ireland Queene Defend^{rs} of the faith &c

Robert Vigerous of Langham in the Countye of Eſſex Eſq^r aged fourtye ſeauen yeares or thereabout*es* ſworne and examined saieth as followeth. vidz^t./

1./ To the firſte Interr*ogatory* this Depon^t ſaieth that he knoweth Giles Allen gent*leman* Defend^t, And Cuthbert Burbage gent*leman* Comp^lte and that he hath knowne the ſaid Defend^t by the ſpace of ſixe yeares: and the ſaid Comp^lte by the ſpace of foure yeares./

2./ To the ſecond Interr*ogatory* this Depon^t Cannot Depoſe./

3./ To the third he ſaith that aboute foure yeares paſte the ſaid Comp^lte together with Jeames Burbage his father and the ſaid Defend^t were in Com*m*unicac*i*on aboute the makinge and takinge of a newe leaſe of the houſes and groundes and Theatre mencioned in this Interr*ogatory* and at the laſte it was concluded and agreed betweene all the ſaid p*ar*ties that the Defend^t ſhould make a newe leaſe of the ſame to the ſaid Comp^lte for the terme of tenn yeares for and vnder the yearelye rente of foure and twentye pownd*es* which (as this Depon^t remembereth) was an increaſe of tenn pownd*es* rente more then was reſerved in a former leaſe heretofore made to the ſaid Jeames & then expired or neare to be then expired. And that at the enſealinge of the ſaid newe leaſe ſoe to be had the ſaid Jeames and Cuthberte the Comp^lte or one of them ſhould paie vnto the Defend^t certaine arrerages of rente reſ*er*ved vppon the ſaid former leaſe amountinge to the ſom*m*e (as this Depon^t verelye thinketh) of thirtye pownd*es*: All which this Depon^t knoweth to be true for that he was of Counſell with the ſaid p*ar*ties in the ſaid Agreament; and by all their mutuall Conſentes was appointed and eſpeciallye named to drawe penne and wrighte the ſaid newe leaſe accordinge to their ſaid agream^t. And this Exam*ina*^te ſaieth that he did wrighte a Draughte purportinge a leaſe to be made of the p*re*miſſes accordinglye, which beinge don*ne* he deliu*er*ed the ſame into the handes of the ſaid Comp^lte when he came to this Depon^t*es* Chamber to

Demaunde and ſee the ſame and paid him his ffees wth p*ro*miſſes of further reward for his paynes aboute the effectinge of the ſame newe leaſe to be made wch ſhould be a Satten Dublett howebeit he never had it. But whether the Comp^lte^ ſhould giue a hundred pownd*es* for the ſame leaſe or whether the ſaid leaſe tooke effecte or what other agrem^t^ paſſed betweene the ſaid Comp^lte^ and Defend^t^ this Depon^t^ by reaſon of his Diſcontinuance from the Temple knoweth not But he ſaith that he hath ſeene a Draughte purportinge a leaſe to be made of the ſame premiſſes wherein it is incerted that a hundred pownd*es* ſhould be paid by the Comp^lte^ to the Defend^t^, wch Draught (as the Defend^t^ informeth this Depon^te^) was made or cauſed to be made by the Comp^lte^ and by him brought and Deliu*er*ed to the Defend^t^ at his houſe in the Countrye. And this depon^te^: beinge aſked by the ſaid Com*m*iſſion*er*s yf he knewe vppon what Conſidera*c*ion the ſaid hundred pownd*es* was incerted ſaid that he remembereth not the Conſidera*c*ion men*c*ioned in the ſaid Draughte: But he ſaieth vppon the firſte Com*m*unica*c*ion had betweene the ſaid Comp^lte^ and Defend^te^ and the ſaid Jeames before this Depon^te^ as is aforeſaid, the Defend^t^ did demaunde recompence at the hand*es* of the ſaid Jeames for that the Defend^t^ ſaid the ſaid Jeames had not beſtowed twoe hundred pownd*es* in the buildinge or repairinge of the ſaid howſes accordinge to a Covenante menc*i*oned in the ſaid former leaſe nor half ſoe muche or wordes to the like effecte: but whether the ſaid hundred pownd*es* was incerted vppon that Conſidera*c*ion or noe this Depon^te^ knoweth not: and more to this Interrogatorye he cannott Depoſe./

Thomas Nevill of Brickleſea in the Countye of Eſſex gent*leman* aged thirtye five yeares or therabout*es* ſworne and examined ſaieth as followeth. vidz^t^./

1./ To the firſte Interrogatorye he ſaieth that he hath knowne Giles Allen gentl*eman* Defend^te^ and Cuthbert Burbage gent*leman* Comp^lte^ by the ſpace of five yeares nowe paſte or neare therabout*es*./

2./ To the ſecond Interrogatory he ſaieth that there was an agreemente had betweene them the ſaid Comp^lte and the ſaid Defend^te for the howſes and grownd*es* wth the Theatre which were formerlye Demiſed vnto Jeames Burbage the father of the ſaid Comp^lte with an increaſing of the rente from fourteene pownd*es* by the yeare vnto foure and twentye pound*es* by the yeare wch leaſe ſhould beginn at the expirac*i*on of the ould leaſe made vnto the ſaid Comp^lte*s* father and ſhould continue for the ſpace of one and twentye yeares: And this Depon^te further ſaieth that the ſaid Defend^t was at the firſte verye vnwillinge that the ſaid Theatre ſhould Continue one Daie longer for a playinge place yet neverthe-leſſe at the laſte he yealded that it ſhould Continue for a playinge place for certaine yeares; and that the ſaid Defend^te did agree that the ſaid Comp^lte ſhould after thoſe yeares expired Converte the ſaid Theatre to his beſte benifitt for the reſidue of the ſaid terme then to come; and that afterward it ſhould remaine to the onelye vſe of the Defendte: And further this Depon^te ſaieth that the ſaid Jeames Burbage the father did acknowledge the ſom*m*e of thirtye pownd*es* menc*i*oned in this Interrogatorye to be Due vnto the ſaid Defend^t for rente then behinde and vnpaied; And that the Comp^lte Cuthberte Burbage did often times ſithence pr*o*miſe paiment of the ſaid ſom*m*e of thirtye pownd*es* at the enſealinge of the newe leaſe: And he further ſaieth that the ſaid Agreemente was made betweene the ſaid Comp^lte and the Defend^te nowe twoe yeares ſithence or therabout*es* at michaelmas terme nowe nexte Com*m*inge. And further to this Interr*ogatory* this Depon^te cannot Depoſe./

3./ To the third Interr*ogatory* this Depon^te cannott Depoſe./

[In dorſo:]

x° die Octobris Anno Regni R*egi*ne Elizabethe &c xlij°

Jur*amenta* Retourned by Thomas Domiell

[The depoſitions were ſealed, and ſigned by two commiſſioners across the ſealing ſtrips of parchment, now gone, leaving only parts of their names, thus:]

Art[hur Brea]ther [John] Sam̃es

Idem. Bdl. 242. Depositions ex parte Allen, 1 October, 1600, on Interrogatories drawn up June 5.

INTERROGATORIES

Jnterrogatories to be miniſtred to the wittneſſes to be p*ro*duced on the p*ar*te and behalfe of Giles Allen gentl*eman* Defend^{t} againſte Cuthberte Burbage Complain*ante*./

1./ Jnprimis whether did Jeames Burbage father of the Comp^{lte} in his life time tender and Deliuer vnto the Defend^{t} a Draught of a newe leaſe of certaine howſes and ground*es* which were formerlye Demiſed by the Defend^{t} to the ſaid Jeames Burbage requiringe the Defend^{t} to ſeale the ſame: And whether is the Draught nowe ſhewed forthe vnto you the ſame which the ſaid Jeames Burbage Deliu*er*ed vnto the Defend^{t}: And whether Did not the Defend^{t} refuſe to ſeale the ſame and for what Cauſe to yor rememberance Did he ſoe refuſe the ſealinge therof?/./

2./ Item whether Doe you knowe or thinke in yor Conſcience that the ſaid Jeames Burbage did within the firſte tenn yeares after the leaſe made vnto him by the Defend^{t} beſtowe the ſom*m*e of twoe hundred powndes aboute the alteringe and amendinge of the ſaid howſes and buildinges Demiſed vnto him by the Defend^{t}: or what ſom*m*e of money did the ſaid Jeames Burbage beſtowe to that purpoſe within that time Deliuer the trueth what you knowe or haue Crediblye heard herein?/

3./ Item whether Did the ſaid Jeames Burbage keepe the ſaid howſes and buildinges in good rep*ar*acions: And whether are not the ſaid howſes and buildinges or ſome of them nowe growen in great Decaye: And whether hath not the Comp^{lte} vnderpropped them wth ſhores: And whether doe they not ſoe remaine: And what ſom*m*e of money will it coſte to ſett the ſaid howſes and buildinges in good and ſufficient rep*ar*acions Deliuer what you knowe or thinke in yor Conſcience*s* herein: And by what meanes as you

thinke is it come to paſſe that the ſaid howſes and buildinge*s* are growen ſoe ruinous?/

4./ Ite*m* whether hath Ellen Burbage the late wife of the ſaid Jeames Burbage any goodes or Chattles in her hande*s* that were the goode*s* or Chattells of the ſaid Jeames Burbage wherby the Defend^{t} maie haue recompence at her hande*s* for the ſaid fom*m*e of thirtie pownde*s* and the breache of other Covena*n*te*s*: And whether is not the ſaid Ellen accounted a verye poore woman, and not able to ſatiſfie the Credito^{rs} of the ſaid Jeames Burbage: And whether did not the Comp^{lte} and his brother or one of them p*ro*cure the ſaid Ellen to take adminiſtra*c*ion of the goode*s* of the ſaid Jeames Burbage; the ſaid Comp^{lte} and his brother or one of them hauinge before ſecretly gotten the goode*s* of the ſaid Jeames Burbage into their handes that therbye they might Deceiue the Credito^{rs} of the ſaid Jeames Burbage Deliuer what you knowe or haue Crediblye heard herein?/

5./ Ite*m* whether was the Theatre (which was erected vppon pa*r*te of the grounde aforeſaid built at the alone Chardges of the ſaid Jeames Burbage: or whether did not one John Braynes Defraie the one half of the Chardges therof vppon agreement betweene the ſaid Jeames Burbage and the ſaid John Braines that the ſaid John Braines ſhould be partner wth the ſaid Jeames Burbage in the p*ro*ffitte*s* thereof: Deliu*er* what you knowe or haue heard herein?/./

6./ Ite*m* what fom*m*es of money haue the ſaid Jeames Burbage and the Comp^{lte} in their feu*er*all times gayned by the meanes of the ſaid Theatre Deliuer the trueth what you knowe or haue Crediblye heard herein?/./

7./ Ite*m* whether did you heare the Defend^{t} at any time Complaine of the bad Dealinge of the ſaid Jeames Burbage towardes the Defend^{t} for the not paiment of his rente, or not repairinge of his howſes: And whether did you heare him ſoe Complaine before

ſuche time as the ſaid Jeames Burbage did tender a Draught of a newe leaſe vnto the Defend^{t} or at the time of the tender therof: And whether haue you not oftentimes heard the Defend^{t} finde faulte wth the ſaid Jeames Burbage that he was a bad and troubleſome tenante Deliuer what you knowe touchinge this Jnterrogatorye?/

8./ Item whether doe you knowe that the ſaid Jeames Burbage did aſſigne his intereſte and terme (in thoſe grownd*es* and building*es* he held of the leaſe of the Defend^{t}) vnto one John Hide: And howe longe agoe to yor rememberance was the ſaid Aſſignement made: And howe manye yeares of the ſaid leaſe were then to come and vnexpired at the time of the ſaid Aſſignement./

[*In dorso:*]
Quinto die Junij Anno Regni Regine Elizabethe &c xlij°./
fiant *litt*ere dict*e* Dom*in*e Regine direct*e* Will*el*mo Aylif vel duob*us*
eo*rum* ad examinand*um* omnes teſtes ex parte defend^{t}
Virtute Ordinis tam de artic*u*lis infraſcriptis quam p*er* partem miniſtrand*is* in forma iuris iurand*i* et ad certificand*um* ead*em* in oct*abis* Mich*ael*is prox*imis*
Rog^{r} Wilbraham

DEPOSITIONS

Depoſition*es* Capt*ae* ap*u*d Weſtmo*naſterium* primo die Octobris A°: Regni D^{ne} Reg*in*e Elizabethe nunc &c Quadrageſimo Secundo ex p*ar*te Egidij Allen gen*erof*i def^{tis} ver*ſus* Cuthbertu*m* Burbadge gen*erofum* q^{rtem}./

Rob*er*t Myles of the p*ar*iſhe of Whitechappell in the Countye of Midd*leſex* gent*leman* of the Age of threeſcore and ffoure yeares or there Abouts ſworne and examyned the daye and yeere aboueſaid depoſithe and ſaythe./

1/ To the ffirſte Jnterr*ogatory* this deponent ſaythe he hath hard the defend*ant* ſaye that the Compla*inantes* father did in his lyffe tyme

tender vnto him A draught of A newe leafe of Certayne houſes and grounde*s* formerlye demiſed by him the ſaid defendt vnto James Burbadge deceaſſed, And that the ſaid James Burbadge when he tendered the ſame drafte did require the defendt to Seale the ſame, And that he the defendt did refuſe to Seale vnto the ſame for that yt was not tendered vnto him at the tyme Agreed vppon, and for that the Countenante*s* weare not therin ſett downe accordinge to there Agreem^t./ And more he cannott depoſe touchinge the ſaid Jnterro*gatory* for that there is no drafte of a leafe nowe lefte to be ſhewed vnto him at the tyme of his examynacion./

2./ To the ſecond Jnterro*gatory* this depone*n*t ſaythe he hath hard yt reported that w^th^in the firſte ten yeares after the leafe made vnto James Burbadge by him the ſaid defend*an*t, he the ſaid James Burbadge and his p*ar*tine*r* or one of them did beſtowe vppon the houſes and buyldinge*s* ſoe demiſed by the defendt vnto the pl*ain*tiffe*s* fathe*r* the ſome of twoe hundred pounde*s* or the*r* aboute viz about the Alteringe and Amendinge of the ſame p*re*miſſs ſoe demiſed And more he Cannott depoſe touchinge the ſaid Jnterro*gatory*

3./ To the third Jnterro*gatory* this depone*n*t ſaythe that for any thinge he knowethe to the Contrarye the ſaid James Burbadge and one Braynes his p*ar*tne*r* did duringe James Burbadge his lyffe tyme keepe the ſaid houſes and buyldinge*s* in good repa*r*acions But ſaythe he knowethe not howe the ſame houſes and buyldinge*s* are nowe repayred, or haue bene repayred ſynce the deceaſe of James Burbadge, nor how they are decayed for that he hathe not bene in them aboue twice ſynce the deceaſe of James Burbadge./ And this depone*n*t ſaythe that Syxe or Seaven yeares ſynce there was A greate longe Barne (p*ar*cell of the demiſed p*re*miſſs) vnde*r*propped and Shored: but he knoweth not that yt is ſoe ſtill for that he hath not ſeene yt of longe tyme, nor knowethe what ſome of money yt will Coſte to ſett the ſame in good and Suffytient repa*r*acions. And more he Cannott depoſe touchinge the ſaid Jnterro*gatory*./

4./ To the ffourthe Jnterr*ogatory* this Depon*ent* ſaythe he thinkethe that Ellen Burbadge the wyffe of James Burbadge hath not in her hand*es* Suffytient of her ſaid huſbond James Burbadge his good*es* and Chattles whereby the defend*ant* maye haue recompence at her hand*es* for the ſome of thirtye pound*es* and breache of oth*er* Couenant*es*. for ſhee is accompted but A poore woeman not hable to paye her huſbond*es* Creditor^{rs}./ And ſaythe that the Compl*ainant* and his broth*er* or one of them did pr*o*cure the ſaid Ellen to take adminiſtrac*i*on of her ſaid huſbond*es* good*es* they or one of them havinge before that ſecretlie gotten James Burbadge his good*es* into there hand*es* And ſoe th*er*by the Creditor^{rs} are not Satiſfied otherwiſe he thinkethe Amongeſte them there was left Suffytiente to Satiſfie all James Burbage his Creditor^{rs}./ And more he cannott depoſe

5./ To the vth Jnterr*ogatory* this depon*ent* ſaythe he knowethe that the Theater menc*i*oned in the Jnterr*ogatory* was not only buylte at the Alone Charges of James Burbadge. but one John Braynes menc*i*oned in the Jnterr*ogatory* did defraye the one halfe of the Charges th*er*of (or more) vppon Agreem^{t} betweene James Burbadge and him the ſaid Braynes that he the ſaid Braynes ſhould haue had from Burbadge A leaſe of the Theater vnder the lyke Couenant*es* he the ſaid Burbadge had his houſes and ground*es* from the def*endant* And that he knowethe the ſame to be true for that he was p*ar*tlie acquaynted wth there Agreem^{t}. And hath the bond*es* wherin Burbadge was bound to Braynes to p*er*forme the Agreem^{t}./ And more he cannott depoſe./

6./ To the vjth Jnterr*ogatory* this depon*ent* ſaythe he verelye thinkethe that James Burbadge and Cuthberte Burbadge in th*er* feu*er*all lyfes tymes haue gayned by the Theater aboue A thouſand mark*es*./ And more he Cannott depoſe./

7./ To the vijth Jnterr*ogatory* this depon*ent* ſaythe he hath often hard the defend*ant* Complayne of James Burbadge his bad dealinge wth him in not paym^{t} of his rent./ And that the ſaid Defendt

did not Complayne but fynce the tender of the ſaid drafte of the newe leaſe./ And hath hard the defendt ſaye that James Burbadge was A trobleſome tenant./ but he hard him not fynd falte wth him nor Complayne of him for non repayringe of his houſes./ And more he Cannot depoſe./

8./ To the viij^th^ Jnterr*ogatory* this depon*e*nt ſaythe he knowethe that the ſaid James Burbadge did aſſigne his Jntereſte and terme in the p*re*miſſs demiſed vnto him vnto one John Hide for a ſome of money./ And as he remembr*i*the yt is about ffyfteene yeres paſte ſythence the ſame aſſignem^t^ made./ And there weare about fyfteene yeares to Come and vnexpired in the ſaid leaſe at the tyme of the ſaid aſſignem^t^ And more he Cannot depoſe./

[Signed] By me Robart Miles

Raphe Myles of the p*ar*iſhe of Whyte Chapple in the Countye of Midd*le*ſ*ex* gent*le*man of the Age of thirtye fyve yeres or there about*es* ſworne and examyned the daye and yeare abouеſaid depoſithe and ſaythe

1/ To the ffirſte Jnterr*ogatory* this depon*e*nt ſaythe he hath hard that James Burbadge the Compl*ainantes* fath*er* did in his lyffe tyme tender vnto the defend*a*nt the drafte of A newe leaſe of Certayne houſes and ground*es* formerlye demiſed by the defend*a*nt vnto James Burbadge and that James Burbadge required the defendt to Seale the ſame newe leaſe./ but what anſwere the defendt made the pl*aintiffes* fath*er* when he demaunded to ſeale the ſame he knoweth not nor hath hard./ And more he Cannot depoſe touchinge the ſaid Jnterr*ogatory* for that the drafte of the newe leaſe mencioned in the Jnterr*ogatory* is not lefte to be ſhewed him neyth*er* hath he ſeene yt at any tyme./

2./ To the ſecond Jnterr*ogatory* this depon*e*nt ſaythe that James Burbadge beſtowed muche money in alteringe mendinge and repayringe the p*re*miſſs demiſed vnto him by the defendt, but howe muche he knowethe not, nor whether he beſtowed that Coſte w^th^in

the tyme mencioned in the Jnterr*ogatory*. And more he Cannott depoſe./

3./ To the third Jnterr*ogatory* this depon*e*nt ſaythe that James Burbadge in his lyffe tyme kepte the p*re*miſſs demiſed vnto him in reaſonable good rep*ar*ac*i*ons: but he knowethe not in what decaye they nowe are for that he ſawe them not of A longe tyme./ nor whether the pl*aintiff* hath vnderpropped them wth Shores, nor whether they be nowe remayninge vnderpropped./ nor what yt will coſte to ſett the howſes in rep*ar*ac*i*ons for that he knowethe not nor hath ſeene howe they are decayed./ And more he Cannott depoſe touching the ſaid Jnterr*ogatory*./

4./ To the ffourthe Jnterr*ogatory* this depon*e*nt ſaythe he knowethe not that Ellen Burbadge hath any good*es* or Chattles in her handes that weare her late huſbond James Burbadge his good*es* wherby the defendt maye haue recompence at her hand*es* for the ſome of thirtye pound*es* and the breache of other Couenant*es*./ And ſaythe that Ellen Burbadge is accompted A poore woeman not hable to Satiſfie her huſbond*es* Credyto^rs^./ And ſaythe he knoweth not whether the Compl*ainant* and his brother or one of them p*ro*cured the ſaid Ellen Burbadge to take adminiſtrac*i*on of the good*es* of James Burbadge they or one of them havinge firſte gotten the ſaid James Burbage his good*es* into there hand*es* thereby to deceave the Credito^rs^ of the ſaid James./ And more he cannot depoſe./

5./ To the vth Jnterr*ogatory* this depon*e*nt ſaythe he hath Crediblie hard that the Theater mencioned in the Jnterr*ogatory* was not buylte at the Alone charge of James Burbage./ but that one John Braynes defrayed the halfe of the Charge vppon Agreem^t^ betweene them that Braynes ſhould be p*ar*tner wth Burbage in the p*ro*fytt*es* ther*o*f. And that he hath ſeene A bonde of Burbages to Braynes whereby yt playnelie appeareth that Braynes had the moyetye of the p*ro*fytt*es* ther*o*f in his lyffe tyme and burbage was bound that he ſhould enioye the ſame./ And more he Cannott depoſe./

6./ To the vjth Jnterr*ogatory* this depon*e*nt ſaythe he thinkethe that James Burbadge and the Compl*ainan*t in there ſeu*er*all tymes haue gayned by meanes of the ſaid Theater A thouſand mark*es* and better./ And more he Cannot depoſe./

7./ To the vijth Jnterr*ogatory* this depon*e*nt ſaythe he hath hard the defendt Complayne of James Burbage his badd dealinge toward*es* him in not paym^{t} of his rent./ but not for the repayringe of his houſes./ But he rememb*er*ithe not wheth*er* he Complayned of his badd dealinge before or after the tender of the newe leaſe, but thinkethe yt was before the tender and at the ſygne of the George in Shoreditche And that then the defendt found falte wth James Burbage and ſaid he was A bad and trobleſome fellowe./ And ſynce or before he hard not the defendt vſe the lyke ſpeeches of James Burbadge./ And more he Cannott depoſe./

8./ To the viijth Jnterr*ogatory* this depon*e*nt ſaythe he knowethe that James Burbadge did in his lyffe tyme aſſigne his intereſte and terme in the premiſſs vnto one John Hyde menc*i*oned in the Jnterr*ogatory*./ But he rememb*er*ythe not howe longe yt is ſythence the ſayd aſſignem^{t} was made to Hyde nor howe many yeares of the ſaid leaſe weare then to come and vnexpired at the tyme of the ſaid Aſſignemen^{t}./ And more he Cannott depoſe to his rememb*er*ance./

[Signed] p*er* me: Raphe: Miles

APPEARANCE OF ALLEN

Requests, Misc. Books, vol. 109, fo. 8 (Appearance Book, 42 Eliz. to 7 Jas. I).

Nono die Octobris A° xlij^{do} [1600]

Egidius Allen gen*erosus* p*er*ſon*aliter* comp*ar*et cora*m* con*cilio* R*egi*ne virtute b*re*vis de Attachiam*ento* ad ſectam Cuthberti Burbage

ALLEN *v.* BURBAGE

Queen's Bench, Easter, 44 Elizabeth (1602) membrane 257.

[The following pleadings incorporate the lease of Gyles Allen to James Burbage, April 13, 1576, here rendered into Latin. This document has not hitherto been printed or quoted from. Its existence was known to Halliwell-Phillipps who, in his *Outlines*, I, 349, refers to it as containing the same description of the leased premises as is found in the proposed but unexecuted deed of 1585. The latter is incorporated in Street's Answer in the suit of Allen *v.* Street, Court of King's Bench, 1600, printed in preceding pages.]

Adhuc De Termino Paſche Tefte J. Popham

Midd ff Memorandum quod alias ſcilicet Termino ſancti Hillarij Anno regni domine Elizabethe nunc Regine Anglie quadrageſimo tercio coram eadem domina Regina apud Weſtmonaſterium venerunt Egidius Aleyn armiger & Sara vxor eius per Johannem Tanner attornatum ſuum Et protulerunt hic in Curia dicte domine Regine tunc ibidem quandam billam ſuam verſus Cutbertum Burbage in Cuſtodia Marrefcalci &c de placito Convencionis fracte Et ſunt Plegii de proſequendo ſcilicet Johannes Doo & Ricardus Roo Que quidem billa ſequitur in hec verba ff Midd ff Egidius Aleyn armiger & Sara vxor eius querunturde Cutberto Burbage in Cuſtodia Marrefcalci Marefcalcie domine Regine coram ipſa Regina exiſtente de placito Convencionis fracte pro eo videlicet quod Cum predicti Egidius & Sara decimo tercio die Aprilis Anno regni domine Elizabethe nunc Regine Anglie decimo octavo per quandam Jndenturam ſuam factam apud Hallowell in Comitatu predicto predicto decimo tercio die Aprilis Anno decimo octavo ſupradicto inter prefatos Egidium & Saram per nomen Egidij Aleyn de Hallowell in Comitatu Middleſexia generoſi & Sare vxoris eius ex vna parte & quendam Jacobum Burbage patrem predicti Cutberti per nomen Jacobi Burbage de londonia Joyner ex altera parte/ Cuius quidem Jndenture alteram partem Sigillo ipſius Jacobi Segillatam gerentem datum predicto decimo tercio die Aprilis Anno decimo octavo ſupradicto predicti Egidius &

Sara hic in Cur*ia* p*ro*ferunt ex eor*um* vnanimis conſenſu & aſcenſu p*ro* & in Conſideracione sume viginti lib*rarum* leg*a*lis monete Angl*ie* sibi in manib*us* ad sigillac*i*onem Jndenture illius p*er* p*redict*um Jacob*um* Burbage veraci*ter* solut*e* p*ro* & nom*in*e finis vel p*re*ſolucionis Anglice income locaverunt & ad firmam tradiderunt p*re*fat*o* Jacobo Burbage om*n*es ill*as* duas domos vel tene*ment*a cu*m* p*er*tin*entiis* adtunc exiſten*tes* in sep*ar*alib*us* tenur*is* vel occupac*i*onib*us* Johanne Harryſon vid*ue* & Joh*ann*is Draggon Acetiam tot*am* ill*am* domu*m* vel tene*mentum* cu*m* p*er*tin*entiis* simulcu*m* solo gardini Anglice garden grounde iacen*te* a tergo p*ar*tis eiuſd*am* adtunc exiſten*tis* in occupac*i*one Will*elm*i Garnett Gardyner quod quid*em* Gardinu*m* adtunc extendebat in latitudine A magno muro lapidoſo ib*idem* qui adtunc includebat p*ar*tem gardini adtunc vel nup*er* in occupacione p*re*fat*i* Egidij ad gardinum ibid*em* adtunc exiſten*s* in occupac*i*one Evini Colefoxe weaver & in longitudine ab eod*em* domo vel tene*mento* ad murum Anglic*e* A brickwall ib*idem* p*roximum* ad agros Co*mmuniter* vocat*os* ffynneſburye fylde*s*/ Acetiam tot*am* ill*am* domu*m* vel tene*mentum* cu*m* p*er*tin*entiis* vocat*am* siue cognit*am* p*er* nomen domus molendinar*ie* simulcu*m* solo gardini iacen*tis* A tergo p*ar*tis eiuſd*em* adtunc exiſten*tis* in tenura vel occupac*i*one p*redicti* Evini Colefoxe vel Aſſign*atorum* suo*rum* quod quidem solu*m* gardini adtunc extendebat in longitudine ab eod*em* domo siue tene*mento* ad p*redictum* mur*um* tegulariu*m* Anglic*e* brickwall p*roximum* ad p*redict*os agros Acetiam om*n*es ill*os* tres sup*er*iores locos cu*m* p*er*tin*entiis* p*roxime* adiungen*tes* ad p*redictam* domu*m* molendinaria*m* adtunc exiſten*tes* in occupac*i*one Thome Dancaſter Showmaker vel aſſign*atorum* suo*rum* Acetiam om*n*es ill*os* inferiores locos cu*m* p*er*tin*entiis* adtunc iacen*tes* subt*er* ill*os* tres sup*er*iores locos acetiam p*roxime* adiungen*tes* ad p*redict*am domu*m* siue tene*mentum* vocat*am* the Millhowſe adtunc exiſten*tes* in sep*ar*alib*us* tenuris vel occupacionib*us* Alicie Daridge vid*ue* & Ric*ard*i Brackenbury vel Aſſignato*rum* suo*rum* simulcu*m* solo gardini iacen*tis* a tergo eiuſd*em* adtunc extenden*tis* in longitudine ab eiſd*em* inferiorib*us* locis vſqu*e* p*redictum* tegulariu*m* mur*um* p*roximum* ad p*redict*os agros & adtunc etiam exiſten*tis*

in tenura sive occupacione p*redicte* Alicie Daridge Acetiam tantu*m* terr*e* & soli Anglic*e* soyle iacen*tis* & exiſten*tis* ante om*n*ia tene*men*ta siue domos p*re*conceſſa quantu*m* adtunc extendebat in longitudine a exte*r*iore p*ar*te p*redictorum* tene*men*to*rum* adtunc in occupacione p*redictorum* Johanne Harryſon & Joh*ann*is Dragon ad stagnu*m* ib*idem* exiſtens p*roximum* horreo siue Stabulo Adtunc in occupacione p*re*nobilis viri Comit*is* Rutl*and* & in latitudine de p*redicto* tene*men*to vel domo molendinar*ia* ad mediu*m* fontis exiſten*tis* ante eade*m* tene*men*ta/ Acetiam tot*um* ill*um* magnu*m* horreu*m* cu*m* p*er*tine*n*tiis adtunc exiſtens in sep*ar*alib*us* occupacionib*us* Hugonis Richardes Jnhoulder & Rob*er*ti Stoughton Butcher Acetiam p*ar*vam peciam soli adtunc incluſam cu*m* palo & p*roxime* adiunge*n*tem ad p*redictum* horreu*m* & adtunc in occupacione d*icti* Rob*er*ti Stoughton si*mi*liter simulcu*m* & omnib*us* t*er*ris & solo iacen*tibus* inte*r* p*redictos* inte*r*iores locos poſtremo ante expreſſ*os* p*redictum* magnu*m* horreu*m* & p*redictum* Stagnu*m* viz extenden*tem* in longitudine a p*redicto* Stagno ad foſſatu*m* vltra muru*m* tegulariu*m* p*roximum* agris p*redictis*/ Acetiam p*redictus* Egidius Aleyn & Sara vxor eius p*er* Jndentur*am* p*redictam* dimiſerunt conceſſerunt & ad firmam tradiderunt p*redicto* Jacobo Burbage tot*a* rectu*m* titulum & inte*r*eſſe sua que ip*ſi* p*re*fati Egidius & Sara adtunc h*abe*bant vel h*ab*ere deberent de in vel ad terr*am* & solu*m* iacen*tia* inte*r* p*redictum* magnu*m* horreu*m* & horreu*m* adtunc in occupacione d*icti* Comit*is* Rutl*and* vel aſſign*atorum* suo*rum* extenden*tia* in longitudine A stagno p*redicto* & A p*redicto* Stabulo vel horreo in occupacione p*redicti* Comit*is* vel aſſign*atorum* suo*rum* vſq*ue* ad p*redictum* muru*m* tegulariu*m* p*roximum* p*redictis* agris/ Acetiam predicti Egidius & Sara p*er* Jndenturam p*redict*am dimiſerunt conceſſerunt & ad firmam tradiderunt p*redicto* Jacobo omnes suas vacuas terr*as* iacen*tes* & exiſten*tes* inte*r* p*redictum* foſſatu*m* et p*redictum* murum tegulari*um* extenden*tes* in longitudine A p*redicto* muro qui adtunc incluſit p*ar*tem p*redicti* Gardini Adtunc vel nup*er* in occupacione d*icti* Egidij Aleyn ad p*redictum* horreum adtunc in occupacione d*icti* Comit*is* vel Aſſign*atorum* suo*rum* Acetiam lib*er*u*m* introitu*m* egreſſu*m* & regreſſu*m* ad & A p*redict*is

dimiſſis premiſſis & qualibet parte eorundem tam bene ad & pro predicto Jacobo Burbage executoribus adminiſtratoribus & Aſſignatis suis quam ad & pro omnibus & quibuſlibet aliis perſona & perſonis venientibus siue reparientibus ad premiſſa antea demiſſa sive aliquam partem eorundem per tales vias quales adtunc fuerunt vſe & occupate eiſdem premiſſis in iure predicti Egidij quam etiam per tales pontes & vias quales adtunc fuerunt vel poſtea forent facti per predictum murum tegularium in predictis agris omnibus & quibuſlibet tempore & temporibus Conuenientibus adtunc impoſterum durante toto termino Annorum adtunc in Jndentura predicta conceſſo abſque aliquo legittimo obſtaculo impedimento perturbacione vel interrupcione dicti Egidij heredum vel Aſſignatorum suorum sive aliquorum eorum siue alicuius alterius perſone vel perſonarum in eius vel eorum iure recto sive titulo sive per eius vel eorum medium siue procuramentum/ omnia que quidem premiſſa antea preconceſſa adtunc fuerunt scituata iacentia & exiſtentia in & prope Hallowell predictam (exceptis & reſervatis dictis Egidio Aleyn & Sare vxori eius & heredibus & Aſſignatis suis & talibus aliis perſone & perſonis que adtunc inhabitabant inhabitarent vel remanerent in Capitali Meſſuagio siue Tenemento ibidem vel in aliqua parte eiuſdem adtunc vel nuper in occupacione predicti Egidij & ad & pro tenentibus dicti Egidij qui adtunc habitabant vel impoſterum inhabitarent in Hallowell predicta liberam libertatem portandi & hauriendi aquam ad predictum pontem de tempore in tempus durante predicto termino Jta quod illi reciperent comoditatem dicti fontis de tempore in tempus inter eos equaliter super legittimam requiſicionem portare & soluere dicto Jacobo Burbage executoribus vel Aſſignatis sius medietatem omnium talium onerum qualia expenderentur Anglice layd out in & circa neceſſariam reparacionem & emendacionem dicti fontis de tempore in tempus quoties opus requireret durante Termino predicto Acetiam libera ingreſſum & regreſſum ad & pro dictis Egidio & Sara vxore eius & heredibus Aſſignatis executoribus & ſervientibus sius & ad & pro reuerendo in Xriſto patre Johanni Scorye adtunc Epiſcopo hereforde Elizabetha vxore eius & ſervientibus & aſſignatis suis de

& a predicto magno gardino adtunc vel nuper pertinente dicto Egidio in predictos agros per pontem & viam adtunc ibidem vſitata et occupata omnibus legittimis tempore & temporibus durante Termino Annorum in Jndentura predicta poſterius conceſſo habenda & tenenda omnia predicta domos sive tenementa horreum gardinum terram & omnia alia premiſſa preconceſſa (exceptis preexceptis) dicto Jacobo Burbage executoribus & Aſſignatis suis A feſto Annunciacionis beate Marie adtunc vltimo preterito ante datum Jndenture predicte vſque plenum finem & terminum viginti & vnius Annorum extunc proxime & imediate sequentem & plenarie complendum & finiendum reddendo & soluendo proinde annuatim durante termino predicto dictis Egidio Aleyn & Sare vxori eius vel vni eorum & heredibus & Aſſignatis predictorum Egidij & Sare quatuor decim libras legalis monete Anglie ad quatuor feſta siue Terminos in Anno viz ad feſta Nativitatis ſancti Johannis Baptiſte ſancti Michaelis Archangeli Nativitatis domini & Anunciacionis beate Marie vel infra spacium viginti & octo dierum proximum poſt quodlibet eorundem feſtorum per equales porciones/ Et predictus Jacobus Burbage pro seipſo executoribus adminiſtratoribus & Aſſignatis suis convenit & conceſſit ad & Cum predictis Egidio Aleyn & Sara heredibus & Aſſignatis suis & eorum quolibet per Jndenturam predictam inter alia quod ipſe predictus Jacobus Burbage executores adminiſtratores vel Aſſignati sui ad eius vel eorum propria Cuſtagia & onera predicta domos siue tenementa horreum gardina & omnia alia premiſſa preconceſſa & omnes domos Anglice the privyes predictis premiſſis siue alicui parti eorundem pertinentes adtunc factos vel impoſterum faciendos in omnibus neceſſarijs reparacionibus bene & ſufficienter reparent manutenerent ſuſtinerent facerent eſcurarent mundarent & emendarent de tempore in tempus quando & quoties neceſſe requirerent Et eadem tam bene & ſufficienter reparata mundata eſcurata & emendata in fine eiuſdem terminj viginti & vnius Annorum relinquerent & ſurſumreddirent eiſdem Egidio & Sare & heredibus & Aſſignatis eiuſdem Egidij prout per Jndenturam predictam inter alia plenius liquet & apparet/ virtute Cuiusquidem dimiſſionis predictus

Jacob*us* in ten*emen*ta p*redict*a sibi vt p*refertur* dimiſſa intrauit Et fuit inde poſſeſſionat*us* p*redictoque* Jacobo sic inde poſſeſſionat*o* exiſten*te* id*em* Jacobus poſtea scil*icet* decimo septimo die Septembris Anno regni d*icte* d*omi*ne Regine nunc viceſimo primo Apud Hallowell p*redictam* Aſſign*auit* tot*a* inter*e*ſſe & t*erminum* Annor*um* sua que ip*ſe* adtunc h*ab*uit ventur*a* de & in ten*emen*tis p*redict*is sibi vt p*refertur* dimiſſ*a* cu*m* p*er*tin*entiis* cuid*am* Joh*anni* Hide Civi & groce*r*o londo*nie*/ virtute Cui*us* p*redict*us Joh*annes* Hyde in p*redict*a ten*emen*ta p*refato* Jacobo vt p*refertur* dimiſſa cu*m* p*er*tin*entiis* intravit & fuit inde poſſeſſionat*us* p*redictoque* Joh*anne* Hide sic inde poſſeſſionat*o* exiſten*te* id*em* Joh*annes* Hyde poſtea scil*icet* septimo die Junij Anno regni d*icte* d*omi*ne Regine nunc Triceſimo primo Apud Hallowell p*redictam* aſſign*auit* tot*a* inter*e*ſſe & t*erminum* Annor*um* sua que ip*ſe* adtunc h*ab*uit ventur*a* de & in ten*emen*tis p*redict*is p*refato* Jacobo vt p*refertur* dimiſſis cu*m* p*er*tin*entiis* p*refato* Cutb*er*to Burbage virtute Cui*us* p*redict*us Cutb*er*tus in p*redicta* ten*emen*ta ill*a* cu*m* p*er*tin*entiis* intrauit & fuit inde poſſeſſionat*us* Et p*redicti* Egidius & Sara vlt*er*ius dicunt q*uo*d licet ip*ſi* ijd*em* Egidius & Sara om*nes* & sing*u*las Convenc*i*ones Conceſſ*i*ones Artic*u*la & agreamenta in Jndentura p*redicta* mencionat*as* ex partib*us* ip*ſorum* Egidij & Sare & eo*rum* vteriuſq*ue* in & p*er* Jndentur*am* p*redictam* p*er*formand*as* ob*ſer*vand*as* cuſtodiend*as* & p*er*implend*as* A tempore confecc*i*onis Jndenture p*redicte* vſq*ue* finem & t*erminum* p*redictorum* viginti & vni*us* Annor*um* in Jndentura p*redicta* sup*er*ius menc*i*onat*os* bene & veraci*ter* p*er*formaverunt obſervaverunt cuſtodiverunt & p*er*impleverunt s*ecundum* formam & eff*ectum* Jndenture illius/ p*rote*ſtando q*uo*d p*redictus* Jacobus Burbage dur*ante* tempore quo id*em* Jacobus ten*emen*ta p*redict*a sibi vt p*refertur* dimiſſ*a* virtute dimiſſionis p*redicte* sibi vt p*refertur* fact*e* h*ab*uit & tenuit & quod p*redictus* Joh*annes* Hide dur*ante* toto t*ermino* quo id*em* Joh*annes* Hyde fuit poſſeſſionat*us* de & in ten*emen*tis p*redict*is cu*m* p*er*tin*entiis* virtute Aſſignac*i*onis p*redicte* sibi p*er* eund*em* Jacob*um* vt p*refertur* fact*e* non tenuer*unt* cuſtodiverunt & p*er*formaverunt aliquas Convenc*i*ones conceſſiones Artic*u*la & agreament*a* in Jndentura p*redict*a sup*er*ius men-

cionat*as* & ex p*ar*te ip*/*ius Jacobi du*m* ip*/*e poſſeſſionat*us* fuit de & in ten*emen*tis p*redict*is virtute dimiſſionis p*redicte* & ex p*ar*te ip*/*ius Joh*ann*is Hide poſt aſſignac*i*onem p*redict*am sibi p*er* p*redict*um Jacobu*m* vt p*refer*t*ur* fact*am* & in & p*er* Jndenturam p*redict*am p*er* ip*/*os in forma p*redict*a obſ*er*vand*as* p*er*formand*as* & Cuſtodiend*as* s*ecund*um formam & eff*ect*um Jndenture illius*/* Et p*rote*ſtando q*uod* p*redict*us Cutb*er*tus poſt aſſignac*i*onem p*redict*am sibi p*er* p*redict*um Joh*ann*em Hyde vt p*refer*t*ur* fact*am* durant*e* toto t*ermin*o quo id*em* Cutb*er*tus poſſeſſionat*us* fuit de & in ten*emen*tis p*redict*is sibi vt p*refer*t*ur* aſſign*atis* non tenuit & Cuſtodivit aliquas Convenciones conceſſiones et agreamenta in p*redict*a Jndentura int*er* eoſd*em* Egidiu*m* & Saram & p*redict*um Jacobu*m* vt p*refer*t*ur* fact*a* menc*i*onat*as* & ex p*ar*te ip*/*ius Cutb*er*ti du*m* ip*/*e poſſeſſionat*us* fuit de & in ten*emen*tis p*redict*is poſt aſſignac*i*onem p*redict*am sibi p*er* p*redict*um Joh*ann*em Hyde vt p*refer*t*ur* fact*am* & p*er* ip*/*um Cutb*er*tum in & p*er* Jndentur*am* p*redict*am in forma p*redict*a obſ*er*uand*as* p*er*formand*as* & Cuſtodiend*as* s*ecund*um formam & eff*ect*um Jndenture illius ij*dem* Egidius & Sara in f*act*o dicunt q*uod* eod*em* Cutb*er*to de ten*emen*tis p*redict*is p*refat*o Jacobo vt p*refer*t*ur* dimiſſ*is* poſſeſſionat*o* exiſten*te* poſt aſſignac*i*onem p*redict*am p*refat*o Cutb*er*to p*er* p*redict*um Joh*ann*em Hyde vt p*refer*t*ur* f*act*am & ante expirac*i*onem p*redict*or*um* viginti & vni*us* Annor*um* scil*ic*et primo die Octobris Anno regni d*ic*te d*omin*e Regine tricesimo sexto p*redict*um magnu*m* horreu*m* & omnia p*redict*a domus & edificia in Jndentura p*redict*a sup*er*ius menc*i*onat*a* & p*refat*o Jacobo p*er* p*redict*um Egidiu*m* & Saram vt p*refer*t*ur* dimiſſa fuerunt magnop*er*e ruinoſa & in decaſu t*am* in def*ect*u sufficien*tis* coap*er*ture & tegulac*i*onis Anglic*e* tyling q*uam* plauſtrac*i*onis Anglic*e* dawbing Et p*redict*um horreum & omnia p*redict*a domus & edificia sic ruinoſa & in decaſu in def*ect*u sufficien*tis* rep*ar*ac*i*onis & emendac*i*onis eor*und*em ita remanſerunt & Continuaverunt ruinoſa & in decaſu A p*redict*o primo die Octobris Anno Triceſimo sexto sup*radict*o vſq*ue* finem & t*ermin*um p*redict*or*um* viginti & vni*us* Annor*um* p*er* quod groſſu*m* Maherremiu*m* horrei domor*um* & edificior*um* p*redict*or*um* racione pluvie & tempeſtatu*m* sup*er* ead*em* deca-

dentium totaliter putridum & vaſtatum devenit Et sic ijdem Egidius & Sara dicunt quod predictus Cutbertus Convencionem predictam inter ipſos Egidium & Saram & predictum Jacobum pro se & Aſſignatis suis per Jndenturam predictam vt prefertur factam poſt aſſignacionem predictam prefato Cutberto per prefatum Johannem Hyde vt prefertur in eo quod predictus Jacobus Burbage executores adminiſtratores vel Aſſignati sui ad eius vel eorum propria Cuſtagia & onera dicta domos vel tenementa horreum Gardiva ac omnia alia premiſſa preconceſſa Ac omnes domos Anglice Privyes eiſdem premiſſis siue eorundem alique parti spectantes adtunc factos vel impoſterum faciendos in omnibus neceſſarijs reparacionibus bene & ſufficienter reparent manutenerent facerent eſcurarent mundarent & emendarent de tempore in tempus quando & quoties neceſſe requireret Et eadem tam bene & ſufficienter reparata eſcurata mundata & emendata in fine eiuſdem terminj viginti & vnius Annorum relinquerent & ſurſurreddirent eiſdem Egidio & Sare & heredibus & Aſſignatis ipſius Egidij secundum formam & effectum Jndenture predicte licet sepius requiſitus non tenuit sed penitus infregit Et illam ei tenere secundum formam & effectum Jndenture *predicte* penitus recuſavit Et adhuc recuſat ad dampnum ipſorum Egidij & Sare ducentarum librarum Et inde producunt sectam &c./

Et modo ad hunc diem scilicet diem Mercurij proximum poſt xviij Paſche iſto eodem Termino vſque quem diem predictus Cutbertus Burbage habuit licenciam ad billam predictam interloquendum Et tunc ad reſpondendum &c Coram domina Regina apud Weſtmonaſterium venerunt tam predicti Egidius & Sara per Attornatum suum predictum quam predictus Cutbertus per Thomam Petre Attornatum suum Et idem Cutbertus defendit vim & iniuriam quando &c Et dicit quod predictus Egidius Aleyn & Sara accionem suam predictam inde verſus eum habere seu manutenere non debent Quia dicit quod horreum domus & edificia predicta in Jndentura predicta superius specificata prefato Jacobo Burbage per predictum Egidium & Saram (vt prefertur dimiſſa a tempore Confeccionis dimiſſionis illius vſque expiraccionem pre-

dicti Terminj viginti & vnius Annorum fuerunt bene & sufficienter reparata & manutenta in omnibus neceſſarijs reparacionibus de tempore in tempus durante Termino illo quando & quoties neceſſe fuit Ac sic bene & sufficienter reparata & manutenta in fine eiuſdem Terminj viginti & vnius Annorum relicta & surſurreddita fuerunt eiſdem Egidio & Sare iuxta formam & effectum Jndenture illius/ Abſque hoc quod horreum domus & edificia predicta in Jndentura predicta superius mencionata fuerunt ruinoſa & in decaſu modo & forma provt predicti Egidius & Sara superius narrando allegaverunt Et hoc paratus eſt verificare vnde petit Judicium si predicti Egidius & Sara accionem suam predictam inde verſus eum habere seu manutenere debeant &c./

Et predicti Egidius Aleyn & Sara dicunt quod ipſi per aliqua per predictum Cutbertum Burbage superius placitando allegata ab accione sua predicta verſus ipſum Cutbertum habenda precludi non debent Quia vt prius dicunt quod horreum domos & edificia predicta in Jndentura predicta superius mencionata fuerunt ruinoſa & in decaſu modo & forma provt predicti Egidius & Sara superius narrando allegaverunt Et hoc petunt quod inquiratur per patriam Et predictus Cutbertus Burbage similiter &c Jdeo veniat inde Jurata coram domina Regina Apud Weſtmonaſterium die proximo poſt Et qui nec &c ad recogn &c Quia tam &c Jdem dies datus eſt partibus predictis ibidem &c

[No judgment entered. This suit was begun in Hilary (Jan.–Feb.) 1601, and was here entered for trial in Easter, 1602. It was probably stopped before coming to trial. Meanwhile, in November, 1601, Allen had brought suit, on the same general matter of the Theatre, in Star Chamber, and prosecuted it at the same time, until the summer of 1602, when that case as well as this apparently failed. The Star Chamber proceedings here follow.]

ALLEN *v.* BURBAGE

Star Chamber Proceedings, 44 Elizabeth (1601–2), A. 12/35.

[Allen's suit in King's Bench against Street, 1599–1600, had been stopped by order of the Court of Requests, first by injunction, 10 April 1600, and finally by decree of Oct. 18, 1600, and thus failed. Then he lost the suit

brought in Requests by Burbage for relief against him in 1600, and the Court forbade Allen ever again to bring suit in any Court for the tearing down of the Theatre. This decree fell on Oct. 18, 1600, as recited in the Answer of the Burbages in the present suit. Then almost immediately, in the next term, Hilary, 1601, Allen sued Burbage in the King's Bench on the same matter under the subterfuge of breach of contract. This, too, could not but fail. Still determined on his course of annoyance and possible ruin to the new Globe theatre and the Burbage-Shakespeare company there, Allen next brought the following suit in Star Chamber, in November, 1601, still on the same matter, but under the shifted charges of riot, perjury, &c. This continued nearly to the close of 1602. That it likewise failed, finally ending Allen's litigation, is sufficiently indicated by Sir Francis Bacon's opinion upon it, quoted in the Demurrer of Hudson and Osborne, 12 June, 1602. The final decree is lost.

This suit was found by Halliwell-Phillipps, who quoted extracts from it in his *Outlines,* I, 360–61, 372. In a long uninformed article in the *Athenaeum,* Oct. 16, 1909, Mrs. Stopes, after using Halliwell-Phillipps, declared that he had not seen the pleadings in this suit, and claimed them as her "discovery"—only one of several claims by her to discoveries known to scholars.]

BILL

[Date, *in dorso:*]
Lune viceſino Tercio
Novembris Anno xliiij^to^
Elizabeth*e* Regine
William Mill

To the Queenes moſt excellent Matie: ./

In moſt humble wyſe complayninge ſheweth vnto your moſt Excellent Matie: your highnes obedient and faythfull Subiect Gyles Allein of Haſeleigh in your highnes Countye of Eſſex gent*leman* That wheras your ſayd ſubiect together wth Sara his wyfe did heretofore by their Indenture bearinge date the thirteenth daye of Aprill in the eighteenth yeere of your highnes Raigne demiſe vnto one James Burbage late of London Joyner certen howſeing and voyde Groundes lyeing and being in Hollywell in the Countye of Midd*lesex* for the Terme of one and twentye yeeres then next following for the yeerelye Rente of foureteene pownd*es,* wherin

it was covenanted on the parte of your ſayd ſubiect and the ſayd Sara to make a newe Leaſe of the premiſſes to the ſayde James Burbage or his aſſignes att any tyme w^th^in the firſte Tenne yeers vppon his or their Requeſt for the terme of one and twenty yeeres from the making hereof. And it was by the ſame Indenture covenaunted on the parte of the ſayd James Burbage That he or his aſſignes ſhould w^th^in the ſayd firſt Tenne yeeres beſtowe the ſomme of two hundred pownd*es* in alteringe and amendinge of the buyldings there (The value of the olde ſtuffe therof to be accompted parcell) In Conſideracion of wch ſomme of two hundred pownd*es* ſoe to be beſtowed It was covenanted on the parte of your Subiect that it ſhould be lawfull for the ſayd James Burbage and his Aſſignes att anie tyme w^th^in the firſt one and twentye yeeres graunted, or w^th^in the one and twentye yeeres by vertue of the Covenante aforeſayd to be graunted to take downe ſuch Buylding as ſhould w^th^in the ſayd Tenne yeeres be erected on the ſayd voyde grownd*es* for a Theater or playinge place, And afterwardes the ſayd James Burbage did w^th^in the ſayde Tenne yeeres (A Theater being then there erected att the Coſt*es* and Charges of one Braynes and not of the ſayd James Burbage to the value of one Thowſand Mark*es*) tender vnto yor ſubiect a Draught of a newe leaſe of the premiſſes requiring yor Subiecte to ſeale the ſame wch yor ſubiect refuſed to doe, by reaſon that the ſayd Draught ſoe tendred varyed much from the Covenant*es* in the former leaſe, And alſo for that the ſayd James Burbage had before that tyme aſſigned all his Intereſt and terme in the ſayd premiſſes vnto one John Hide and had alſo bene a verye badd and trobleſome tenante vnto your ſayd Subiect. So that yor Subiect was in noe wyſe bounde either in lawe or conſcience to ſeale the ſame, And afterward*es* the ſayd Hide conveyed all his Intereſt and terme in the premiſſes vnto one Cuthbert Burbage the ſonne of the ſayd James Burbage, whoe being deſirous ſtill to make gayne of the ſayd Theater ſuffered the ſame there to contynue till the expiracion of the ſayd Terme, Wherby the right and Intereſt of the ſayd Theater was both in lawe and Conſcience abſolutely veſted in your ſayd Subiect, Whervppon your Subiect ſeeing the greate and greevous

abuſes that grewe by the ſayd Theater intended to pull downe the ſame, and to convert the wood and timber therof to ſome better vſe for the benefitt of your Subiect wch your Subiect had iuſt Cauſe to doe, the rather for that yor Subiect had noe other meanes to be releived for thirtye pownd*es* Arrerages of Rentes wch the ſayd James Burbage in his lyefe tyme did owe vnto your Subiect for the p*re*miſſes, and for the breach of divers Covena*n*tes in not repayring the howſes and otherwiſe for that the ſayd James Burbage had in his lyefe tyme made A deede of guift of all his good*es* to the ſayd Cuthbert Burbage and Richard Burbage his ſonnes, whoe after the death of the ſayd James Burbage procured Ellen Burbage his widdowe being a verye poore woman to take the Adminiſtrac*i*on vppon her wch was done to defraude your Subiect and other Creditors of the ſayd James Burbage. But ſo it is yf it maye pleaſe your excellent Matie: that the ſayd Cuthbert Burbage having intelligence of your Subiect*es* purpoſe herein, and vnlawfullye combyninge and confederating himſelfe wth the ſayd Richard Burbage and one Peeter Streat, William Smyth and divers other p*er*ſons to the nu*m*ber of twelve to your Subiect vnknowne did aboute the eight and twentyth daye of December in the one and fortyth yeere of your highnes Raygne, and ſythence your highnes laſt and generall pardon by the Confederacye aforeſayd ryotouſlye aſſemble themſelves together and then and there armed themſelves wth divers and manye vnlawfull and offenſive weapons, as namelye, ſwordes daggers billes axes and ſuch like And ſoe armed did then repayre vnto the ſayd Theater And then and there armed as aforeſayd in verye ryotous outragious and forcyble manner and contrarye to the lawes of your highnes Realme attempted to pull downe the ſayd Theater whervppon divers of your Subiect*es* ſervaunt*es* and farmers then goinge aboute in peacable manner to procure them to deſiſt from that their vnlawfull enterpryſe, They the ſayd ryotous p*er*ſons aforeſayd notw^thſtanding procured then therein wth greate vyolence not onlye then and there forcyblye and ryotouſlye reſiſting your ſubiect*es* ſervaunt*es* and farmers but allſo then and there pulling breaking and throwing downe the ſayd Theater in verye out-

ragious violent and riotous ſort to the great diſturbance and terrefyeing not onlye of yor ſubiect*es* ſayd ſervaunt*es* and farmers but of divers others of your ma^{ties} loving ſubiect*es* there neere inhabitinge. And having ſo done did then alſo in moſt forcible and ryotous manner take and carrye awaye from thence all the wood and timber therof vnto the Banckſide in the p*ar*iſhe of St Marye Overyes and there erected a newe playe howſe wth the ſayd Timber and wood, Whervppon your Subiecte in Hillarye Terme following did com*m*ence an Acc*i*on of Treſpas agaynſt the ſayd Peeter Streate in your highnes Courte at Weſtm*in*/*ter* commonlye called the kinges Benche for the ſayde wrongfull entringe into your ſubiect*es* groundes and pullinge downe and taking awaye of the ſayd Theater, Howbeit the ſayd Cuthbert Burbage malicioufly intending to vexe and moleſt yor ſubiecte in Eaſter Terme followinge exhibited a Bill vnto yor highnes agaynſt yor ſubiect in yor highnes Courte of Requeſt*es* pretending matter of Equitye for the ſtaye of yor ſubiect*es* ſayd ſute att the Com*m*on lawe whervnto your ſubiecte appeared and made Aunſwere, And afterwardes in Trinytye terme in the xlijth yeare of yor highnes raigne an order was conceived and then publiſhed and pronounced by yor highnes Councell of the ſayd Courte by the Conſent of yor ſubiecte that yor ſubiect*es* ſayd ſute att the Common Lawe ſhould ſtaye till the cauſe in Equitye were heard in the ſayd Courte of Requeſt*es* which was appoynted to be in Michellmas Terme following yett ſoe that the Demurrer wch was formerlye ioyned in the ſayd ſute betweene yor ſubiecte and the ſayd Peeter Streate might be made vpp wch was expreſſye graunted and allowed by the ſayd order vppon the ſpeciall moc*i*on and deſire of yor ſubiect*es* Councell, whervppon yor ſubiecte gave order to his Attorney to cauſe the Demurrer to be made vppe accordinglye./ But maye it pleaſe your excellent Matie the ſayd Cuthbert Burbage myndinge further to intrappe yor ſubiecte and to circumvent him to his great Daunger as the ſequell ſheweth did verye malycouſlye and fraudulentlye after the ſayd Order pronounced as aforeſayd combyne and practiſe wth one John Maddoxe then his Attorney in that ſute wth one Richard Lane the Regiſter of the ſayd Courte and by con-

federacye as aforeſayd procured the ſayd John Maddox to drawe an order (wch app*er*tayned not to him to doe but vnto the Regyſter of the ſayd Courte of Requeſt*es* and likewyſe procured the ſame to be entred and ſett downe directly contrarye to that wch was delivered and p*ro*nounced as aforeſayd by yor highnes Counſell of the ſayd Courte, namelye that yor ſubiect ſhould not proceed to the making vpp of the Demurrer aforeſayd. Therein verye highlye abuſing your highnes ſayd honorable Courte and greatlye iniuringe yor ſubiecte, Howbeit yor ſubiect having formerlye given Order to his Attorney for the making vpp of the Demurrer nothing doubtinge but that ſafelye he might ſo doe being altogether ignorant of the fraudulent and ſiniſter practiſe and confederacye aforeſayd, And yor ſubiect*es* Attorney havinge made vpp the ſayd Demurrer yor ſubiect made repayre home into the Countrye thinking all matters ſhould reſt in peace till the tyme appoynted for the hearing of the ſayd Cauſe. But the ſayd Cuthbert Burbage purſuing his former wicked and vngodlye purpoſe and ſeeking to plunge yor ſubiecte in very greivous and inevitable miſcheifs did the laſt daye of the ſayd Trynitye Terme by the practiſe and confederacye of the ſayd John Maddoxe make oath in your highnes ſayd Courte of Requeſt*es* that yor ſubiecte had broken the order of that Courte by making vpp of the Demurrer aforeſayd, Whervppon your ſubiect for that ſuppoſed Contempt was in the vacac*i*on tyme then next followinge by the p*ro*curem^t^ of the ſayd Cuthbert Burbage and by the confederacye aforeſayd fetched vpp to London by a Purſevant to his great vexac*i*on and troble (beinge a man verye aged and vnfitt to travell) and to his exceſſive charges in his Journey and otherwiſe to his great diſcreditt and diſgrace in the Countrye, And yor ſubiect then by the ſayd Purſevant brought before one of the m^rs^ of your highnes ſayd Courte did (by the ſayd maſters order then made) become bounde vnto the ſayd Cuthbert Burbage in a bonde of two hundred powndes to appeare in the ſayd Court of Requeſt*es* in the begining of the Terme of St Michell then next following to aunſwere the ſayd ſuppoſed contempt and to ſtand to the Order of the ſayd Courte vppon the hearinge of the Cauſe. And afterward*es* yor ſayd ſubiect at

the ſayd Terme appeared in the ſayd Court accordingly, And the matter aforeſayd being opened to yor highnes Counſell there your ſubiect was thervppon by order of that Courte diſcharged of the ſupposed Contempt And afterward*es* in the ſayd Terme of St Michaell at the day appoynted for the hearing of the ſayd Cauſe yor ſubiect appearing in yor highnes ſayd Courte and having divers witneſſes there p*reſe*nte to teſtifie viva voce on the behaulfe of yor ſubiecte, The ſayd Cuthbert Burbage and the ſayd Richard Burbage ſtill p*er*ſiſting in their vnlawfull and malicious Courſes agaynſt yor ſubiect did by the Confederacye aforeſayd then and there very ſhamefully and vnlawfullye revile wth manye reproachfull termes yor ſubiect*es* ſayd witneſſes and affirmed that they had formerly teſtified in the ſayd Cauſe divers vntruthes, and threatned to ſtabb ſome of your ſubiect*es* ſayd witneſſes becauſe they had teſtified of the fraudulent deede of Guift made by James Burbage to the ſayd Cuthbert Burbage and Richard Burbage as aforeſayd, By wch their furyous and vnlawfull threat*es* your ſubiect*es* witneſſes were then ſoe terrefyed that they durſt not teſtifie the truth on the behalfe of your ſubiecte in the ſayd Cauſe. And further ſo it is yf it maye pleaſe yor excellent Matie That the ſayd Cuthbert Burbage did verye malicioufllye and corruptlye and contrarye to the Lawes and ſtatutes of your highnes Realme ſuborne and procure one Richard Hudſon of the pariſhe of St Albons in London Carpenter and Thomas Oſborne of the p*ar*iſhe of ffanchurche in London Carpenter to commit verye greivous and wilfull p*er*iurye in the ſayd ſute in yor highnes Court of Requeſt*es* in diu*er*s materyall poyntes concerninge the ſayd ſute The ſayd Richard Hudſon teſtifieing and depoſing in the ſayd ſute on the behalfe of the ſayd Cuthbert Burbage That he was p*reſe*nt at a veiwe and eſtimate made of the Coſt*es* beſtowed by the aforeſayd James Burbage in his lyefe tyme vppon the howſes and Tenem^{tes} demiſed vnto him by your ſubiect wch veiwe was taken the eighteenth daye of Julye in the yeere of our Lord god one thowſand five hundred eightye ſixe by himſelfe and others And that then it did appeare vnto them That before that tyme The ſayd James Burbage had beſtowed vppon the ſayd Howſes and

Tenem[tes] the ſomme of two hundred and fortye pound*es*. And the ſayd Thomas Oſborne in like manner teſtyfieing and depoſing in the ſayd ſute on the behalfe of the ſayd Cuthbert Burbage That he likewiſe was p*re*ſent at the ſame veiwe and that it did then appeare that w[th]in foure or five yeeres before that veiwe taken there had bene beſtowed vppon the ſayd howſes and Tenement*es* by the ſayd James Burbage the ſom*m*e of two hundred and fortye powndes. Wheras in truth the ſayd Richard Hudſon was not p*re*ſent at any veiwe taken in the yeere aforeſayd, but onlye at veiwe taken in the three and thirtyth yeere of yo[r] highnes Raigne as by the Depoſic*i*on of the ſayd Richard Hudſon himſelfe heretofore made in your hignes Court of Chauncery and there remayning of record it doth evidentlye appeare neither had the ſayd James Burbage at the tyme of the ſayd veiwe ſuppoſed to be made the eighteenth daye of Julye in the ſayd yeere of our Lord God 1586 beſtowed anye thinge neere the ſomme of two hundred and fortye pownd*es* wherof your Subiect hopeth he ſhall be able to make verye ſufficient proofe. By which vnlawfull practiſes of the ſayd Cuthbert Burbage your Subiect did then loſe his ſayd Cauſe. And further ſo it is maye it pleaſe your excellent maieſtye, That aſwell the ſayd ſute betweene your Subiect and the ſayd Streate As alſo the ſayd ſute betweene your ſubiect and the ſayd Cuthbert Burbage were proſecuted agaynſt your ſubiecte by the malicioufe procurement and the vnlawfull mayntenance of the aforeſayd William Smyth (he t[he ſayd] William vnlawfullye [bringing]e the ſayd ſutes for th[e ſayd] Cuthbert Burbage a[nd th]en vnlawfullye expen[din]g and layeing out divers ſommes of money in the ſame for and in the behalfe of the ſayde Cuthbert Burbage [contrarye] to the Lawes and [ſtatutes] of this yo[r] highnes R[ealme an]d to the greate [preiud]ice of your ſubiecte In Conſideraci*o*n wherof and for that the Ryott rout*es* forcible Entries confederacies abuſe of Juſtice maynten[ance and] other the miſdem[eanors a]foreſayd are contrar[ye to y]our highnes lawes [ſtatutes] and ordinances [made] and eſtabliſhed for [the] quiet and happye governement of this your hignes Realme and are not onlye ve[rye grei]vous vnto your ſay[d

ſubiec]t but alſo verye de[leteri]ous in example to [others] yf ſuch and ſo fow[le m]iſdemeanors ſhould [eſc]ape their due and condigne puniſhment Maye it therefore pleaſe your excellen[t Matie] the p*re*miſſes conſide[red to g]raunt vnto your ſu[biecte] your highnes moſt [graci]ous writt*es* of Su[bpoen]a to be directed v[nto] the ſayd Cuthbert Burbage, Richard Burbage, Peeter Streate Will*ia*m Smyth, [Richar]d Lane Richard H[udſon] and Thomas Oſbo[rne c]om*m*aunding them and [everye] of them therbye [on a] certen daye and v[nder] a certen payne therein to be lymitted p*er*ſonallye to be and appeare before yo[ur highnes] moſt honorable p[rivie] Counſell in your high[nes moſt] honorable Court [of Sta]rr-chamber to an[ſwer]e the miſdemean[ors a]foreſayd. And yo[ur] ſayd ſubiect ſhall according to his bounden dutye daylye praye t[o Almig]htye god for your ro[yall] maieſties long lyfe [and pro]ſperous Raigne./

J. Jeffreys [attorney]

[During the years when the parchment of the above bill was rolled up, mice or rats gnawed through one side of the roll, making several holes an inch or more in diameter, when it is flattened out. Words and letters supplied in brackets, from the context, show where these defects occur.]

ANSWER OF THE BURBAGES AND OTHERS

Mercur*ii* 28 Aprilis
Anno 44° Elizabeth*e* Regine
Will*ia*m Mill

The ioynt and feu*er*all Demurrers, and Pleas of Cuthbert Burbage, Richard Burbage Peeter Streete and Will*ia*m Smyth fyve [sic] of the Defend^tes^ to ye bill of compl of Giles Allen gent Compl^t^

The ſaid Defend^tes^ by proteſtac*i*on not acknowledginge nor confeſſinge any of the matters in the ſaid Bill conteyned to be true ſayen. That the ſaid Bill of Compl^t^ exhibited againſt them and others into this moſt honorable Courte is verie vncerteine and inſufficient in the Lawe to be aunſweared vnto for diuers and

ſundrie faultes, and manifeſt ymperfections therein appearinge ſuch as by the Lawes of this Realme and orders of this honorable Courte they theis Defendtes are not tied to make any aunſweare vnto. And namelie whereas the ſaid Complaynt doth charge theis Defendtes in his ſaid Bill for a Riott by them committed in pullinge downe of the ſaide Playe houſe called the Theater, and for takinge and carryinge awaye thence the woodde and Tymber thereon which Playe houſe was builded and erected vppon certeine groundes thentofore Demyſed vnto him the ſaide James Burbage in the ſaide bill of Complaint named by the Compl^{t} and his wife by theire Indenture of Leaſe vnder theire hands and ſeales for the terme of diuers yeares then to come) The ſaid Compl^{t} havinge for that cauſe in Hillarie terme next followinge the ſaid ſuppoſed Riott commenced an Accion of treſpaſſe againſt Peeter Streete, and the ſaid Cuthbert Burbage being two of the nowe Defendtes in her Matties. Courte called the Kinges Benche at weſtminſter. And the ſaid Defend^{t} Cuthbert Burbage being Aſſignee of the premiſſes, and being well able in good conſcience and equitie to iuſtifie the pullinge downe, vſinge and Diſpoſinge of the woodde and tymber of the ſaide Playe houſe, although in ſtrictnes of lawe, by reaſon of the Compltes owne wronge and breache of Covenaunte, he had noe ſufficient matter to alleadge in barre of the ſaid accion, this Defend^{t} Cuthbert Burbage did for his releiſe and ſtaye of the vniuſt proceedinges of the ſaid Complayn^{t} in the ſaid accion exhibite his Bill of Compl^{t} vnto yor Matie before yor Highnes Councell in your honorable Courte of whitehall againſt the ſaide Compl^{t}. Vnto which bill the nowe Compl^{t} appeared and aunſweared and this Defend^{t} Cuthbert replied, and diuers witneſſes were examined on both ſides, publicacion graunted, and ſeuerall daies appointed for the hearinge thereof And vppon the open hearinge and full and deliberate debatinge of the ſaid cauſe, it plainlie appeared vnto yor Matties ſaid Councell that the ſaid James Burbage had well and truelie for his parte perfourmed and kepte all and ſinguler the Covenauntes conteyned in the ſaid Indenture, and that the nowe Complayn^{t} in refuſinge to ſeale A newe Leaſe of the premiſſes tendred vnto

him by the ſaid James Burbage accordinge to A covenant in the ſaid Indenture of Leaſe on his the nowe Compl^tes parte to be perfourmed contrarie to his owne agreement through his owne wronge and breach of covenaunt in not ſealinge the ſaid newe Leaſe vnto the ſaid James Burbage) ſought to hinder him this Defend^t Cuthbert havinge the intereſt of the premiſſes) to take the benefitte of the ſaid agreement in the ſaid Indenture expreſſed in takinge awaye the ſaid playehouſe beinge made and erected by the ſaid James Burbage at his chardge accordinge to the ſaid covenaunte. Therefore it ſeemed vnto yor. Maties ſaid Councell that there was good cauſe in equitie to ſtaie the nowe Compl^tes proceedinges in the ſaid Accion at the Common Lawe. And therevppon it appearinge to your Highnes ſaid Councell the ſaid Defend^t Cuthbert for diuers reaſons had iuſt cauſe to be releiued in the premiſſes It was by yor Highnes ſaid Councell the 18th daye of October in the two and fortithe yeare of yor ma^ties raigne ordered, adiudged and decreed that the nowe Compl^t his Counſello^rs, Attourneyes, and Sollicitors ſhould from thence fourth ſurceaſe and ſtaye and noe further proſecute or proceede at the Common lawe in the ſaid accion of treſpaſſe ſoe commenced againſt the ſaid Peeter Streete for that cauſe. And that the ſaid nowe Compl^t nor any for him, or by his conſent, or procurem^t ſhoulde at any tyme then after commence, or cauſe to be commenced any other accion or ſuyte againſt him this Defend^t Cuthbert or any his ſervauntes, or Aſſignees for or concerninge the pullinge downe of the ſaid Playehouſe, or for carrying awaye the tymber thereof And that this Defend^t Cuthbert ſhoulde be at libertie to take his remedie at and by the courſe of your Highnes Common lawes againſt the nowe Compl^t for not agreeing to ſeale the ſaid newe Leaſe accordinge to A covenaunte on the nowe Compl^tes parte to be perfourmed in the ſaid Indentures expreſſed as (amongſt other things) in the ſaid Judiciall Decree, and ſentence of that Courte more at large it doth and maye appeare. ffor which cauſe, and for that the nowe Compl^t (if he had ſuſpected or had ſhewed any cauſe of greife for any fraude, or indirecte practiſe, or dealinge (by him ſuppoſed to be vſed, or com-

mitted by any of the Officers of your Highnes ſaid Courte) in drawinge, or entringe of orders contrarie to thoſe your Highnes ſaid Counſell had before pronounced or Deliuered in that cauſe) or for any practiſe in any of them theiſe Defend^{tes} for procuringe the ſame as he the ſaid Compl^{t} by his ſaid Bill of Compl^{t} doth falſely and vntruelie ſurmiſe) might at any time whilest the ſame ſuyte was dependinge in the ſaid honorable courte by Compl^{t} thereof made vnto your Highnes ſaid Counſell haue ſuch faul*tes* and miſdemeano^{rs} there redreſſed and puniſhed, and Juſtice myniſtred in that behalf And for that the Complayn^{t} doth offerre great ſcandall, and abuſe to your Highnes ſaid Counſell by callinge the ſame matter againe into queſtion, and in labouringe to haue the ſaid cauſe, after ſuch iudiciall ſentence and decree paſt againſt the ſaid Complayn^{t} in the ſaid honorable Courte to be againe reexamined before your Matie in this Courte. Therefore and for diuers other defect*es,* faul*tes,* and ymp*er*fections in the ſaid bill of Compl^{t} appearinge they theis Defend^{tes} doe demurre in lawe vppon the ſaid Bill, and Demaunde the iudgem^{t} of this honorable Courte, if they theis Defend^{tes} or any of them ought to make any other Aunſweare therevnto, and humblie praye to be Diſmiſſed wth theire reaſonable coſtes therein wrongfullie ſuſteyned

[Signed] Jo. Walter [Attorney]

ANSWER OF RICHARD LANE

Jur*ata* 28 Aprilis
Anno 44° Elizabeth*e*
Regine
Will*iam* Mill

The Aunſwere of Richard Lane one of the defendant*es* to the vntrue and ſclaunderous bill of complaint of Gyles Allen compl./

The ſaid def^{t} ſaving to himſelf now and at all tymes hereafter all advantages and excepc*i*ons to thincertenties and inſufficiencie of the ſaid bill of complaint for Aunſwere and plaine declarac*i*on of

the trueth of ſo much therof as conc*er*neth him this def^{t} ſayeth that true it is that there was A ſute com*m*enſed in her Ma^{tes} hono^{r}able Court of Whitehall at weſtm*inſter* by one Cuthbert Burbage compl*ainant* againſt the ſaid Gyles Allen def^{t} concerning the ſtay of A ſute wch the ſaid Allen had then dependinge in her Ma^{tes} Court of King*es* benche againſt the ſaid Burbage or his ſerva*un*t towching the Playhouſe called the Theater in the bill menc*ion*ed In which Court this def^{t} then and yet ſerving as deputie Regiſter did to the beſt of his vnderſtanding, and wth as much knowledge and diligence as hee could attende, and tooke ſuche briefe notes of Orders as from tyme to tyme her ma^{tes} Counſaill in the ſaid Court pronounced in the ſaid cauſe without anie affecc*i*on to either of the ſayd p*ar*ties Amongeſt wch vpon the xxxjth of May in the xlijth yeare of her ma^{tes} moſt happie reigne, the ſame matter being moved and opened in p*re*ſence of m^{r} ſergeant Harris and m^{r} Walter being ſeu*er*ally of counſaill learned wth both the ſaid p*ar*ties, yt was therevpon (to the beſt of this defendant*es* remembrance) Ordered by conſent of the ſaid p*ar*ties or their Counſaill, that the ſame matter ſhould be ſett over to be heard in the ſaid Court vpon the fyveth day of the ther next terme, And in the meane time the def^{t} ſhould ſtay his ſute at the com*m*on lawe and no further proceede therein, And it was alſo then further Ordered that the ſaid Allen (makinge othe that he was not privie to the depoſic*i*ons publiſhed and ſetting downe the names of the deponent*es* wch hee intended to examine) ſhould be at lib*er*tie texamine the ſame deponent*es* ſo to be named vntill the ſecond day of the ſayd next terme And then the ſame to be publiſhed As by A note remayning in A booke of remembraunc*es* then taken and kept by this def^{t} appeareth. Vpon the coppie of wch note ſo conceaved, and deliu*er*ed by this def^{t}, The ſaid John Madox named in the bill (being Attourney for the ſaid Burbage) or ſome of his clerk*es* or ſome other on the behalf of the ſaid Burbage, did drawe vp an Order at lardge towching the ſame cauſe, and brought the ſame ſubſcribed and confirmed by one of her ma^{tes} ſaid Counſaill of the ſaid Court (As by the ſame ready to be ſhewed vnto this hono^{r}able Court may appeare) into the

Regiſters Office to be entred, which accordingly was done. And this defendant further ſayeth that if the ſaid John Madox or any other who had the drawing of the ſaid Order, did adde or diminiſhe any thinge materiall to or from the ſayd Order more or leſſe then was pronounced yt concerneth him or them in theire othes and credit*te*s and not this def^{t} who did nothing therein more then he had good warrant to doe as aforeſayd. And this def^{t} further ſayeth that the Atturneys of the ſaid Court of Whitehall (being ſworne in theire places to obſerve thorders and due proceeding*e*s of the ſaid Court) have for the ſpace of thirtie yeares laſt paſt to the knowledge of this def^{t} (for ſo longe hee hath ſerved as A Clerke in the ſame Court) and longe before as hee hath hearde and doeth verelie beleeve to be true, vſed to drawe theire Client*e*s Orders (being ſworne to deale indifferentlie therein) And not the Regiſter, As the ſaid Allen in his ſaid bill hath vntruely alledged eſpeciallie ſuch as doe concerne Decrees, or orders made for the graunting of Iniunccions for ſtay of anie proceeding*e*s at the com*m*on lawe diſmiſſions of cauſes, deliu*e*ry out of money or deliu*e*ry of writing*e*s or for theſtabliſhing of any poſſeſſion, and ſuch lyke as are and be vſually confirmed before thentring thereof by and vnder the hand*e*s or hande of ſome of her ma^{te*s*} ſaid Counſaill of the ſaid Court, before they be entred into the Regiſter And for thother ordinary rules and ſhort orders, they are nowe vſually entred by the Regiſter or his deputie wthout any further circumſtance or contradicc*i*on. And wheareas the ſaid compl*ainant* in his bill of complaint hath ſclaunderouſlye and vntruely ſett downe, that the ſaid Burbage did very malitiouſly and fraudulently after the ſayd Order pronounced as aforeſayd, combyne and practiſe wth the ſaid John Madox (his Attourney) and wth this def^{t} (the Regiſter) and by confederacie procured the ſaid John Madox to drawe an Order, wch apperteyned not to him to doe; but vnto the Regiſter of the ſaid Court, and likewiſe procured the ſame to be entred, and ſett downe directly contrary to that which was done and pronounced as aforeſaid by her highenes Counſaill of the ſaid Court, namely that the ſaid Allen ſhould not proceede to the making vp of the demurrer in

the bill mencio*ne*d therein, very highelie abuſing her highenes ſaid ho: Courte, and greatly Iniuring the ſayde Allen now plaintif This defendant for plee and aunſwere therevnto, & every other matter of miſdemeano^{r}, confederacie and combynacion layde to this def^{t}*es* chardge in the ſaid bill ſayeth that hee is thereof and of every p*ar*te thereof not giltie. Without that that this def^{t} did at any time directly or indirectlie practiſe, combyne or confederate wth the ſaid Cuthbert Burbage and John Madock*es* or either of them, or wth any other p*er*ſon or p*er*ſons whatſoeu*er* about the drawing or procuring of the ſaid Order to be entred But did faythfully and ſincerely take the note of the ſayd order as the ſame was pronounced to his beſt vnderſtanding in ſuch forme as is before recited, And the ſame ſubſcribed as aforeſaid was truely entred into the Regiſter accordinglie. And wthout that that anie other matter or thinge in the ſaid bill of complaint conteined towching or concerning this def^{t}, materyall to be aunſwered vnto, and not herein ſufficiently aunſwered, confeſſed and avoyded, trau*er*ſed or denyed is true. All which matters this defendant is readie to averre and proove as this hono^{r}able Court ſhall awarde And humblie prayeth to be diſmiſſed out of the ſame wth his coſt*es* and chardges in this behalf moſt wrongfully had and ſuſteyned./

[Signed] Smyth [Attorney]

DEMURRER OF HUDSON AND OSBORNE

Sabat*i* 12 Junij Anno
44 Elizabeth*e* Regine

Jouis 17 Junij Anno
predicto demur*atur*
p*er* Tho Oſborne

The ioyncte and ſeuerall Demurrers of Richard Hudſon, and Thomas Oſborne two of the defend^{t}*es* to the Bill of Complaynte of Gyles Allen gent*leman* Complayn*a*nte./

The ſaide defend.^{tes} by proteſtacion not acknowledginge nor confeſſinge anie of the matters in the ſaide Bill conteyned to be true ſayen That the ſaide Bill of Complainte exhibited agaynſte them and others in this honorable Courte is very vntrue and ſlaunderous vncerteyne and inſufficient in the lawe to be aunſwered vnto for diuers and ſondrie faults and manifeſt ymperfeccions therin appearinge and ſuche as by the lawes of this Realme and orders of this honorable Courte they theis defend.^{tes} are not tyed to make anie aunſweare therevnto And namelye for that the matters and ſuppoſed periurie in the ſaide Bill conteyned wherewth they theis defend.^{tes} are or doe ſtande charged are therin ſoe vncerteinlie and inſufficiently layed as they theis defend.^{tes} vnder the favo^{r} of this honorable Courte cannot and are not tyed to make anie further aunſweare thervnto And theis defend.^{tes} further ſaye That other of the defend.^{tes} in the ſaide Bill of Complainte named havinge beene heretofore ſerved wth proceſſe haue appeared and demurred vppon the ſame Bill whiche demurrer beinge referred by the orders of this honorable Courte to the right worſhipfull ffrauncis Bacon Eſquier, he vppon pervſall and conſideracion had of the ſaide Bill of Complaynte, hathe already reported That the ſaide Bill is veary vncerteine and inſufficient and that noe further aunſweare needeth to be made therto for whiche cauſes and diuers other matters and defects in the ſaide Bill appearinge They theis defend.^{tes} doe Demurre in lawe vpon the ſaide Bill of Complaynte And prayen to be diſmiſſed oute of this honorable Courte wth theire reaſonable coſtes and chardges by them in this behalf moſte wrongfullie borne and ſuſteyned./.

[Signed] Jo: Walter [Attorney]

EXAMINATION OF RICHARD LANE

Star Chamber, Elizabeth, A 33/32.

primo Maij poſt
meredi*em:* Anno
R*egni* Re*gi*ne Eliz*abethe* 44to./

Rec vj^{s}
T H

Interrogatories to be miniſtred to Richard Lane on of the Defendantes at the ſuite of Gyles Allen Complaynante.

1 **Inprimis** whither doe yo^{u} knowe that a bill was heretofore exhibited in her Maties Court of Requeſtes by Cutbert Burbage againſt the ſaide Complaynante for the ſtaying of a ſuite wch the ſaide Complaynante had commenced in her Maties bench at Weſtminſter againſt one Peter Street for the pulling downe of the playing place called the Theater./

2 **Item** whither doe yo^{u} knowe that it was ordered by the ſaide Court of Requeſtes, by an order made the laſt daye of May in the Two and ffortieth yeare of her Maties Raigne, that the ſaid ſuite betwen the ſaide Complaynante, and the ſaide Peter Street ſhould be ſtayed, and whither did the ſaide Court then geue libertie, by the ſaide order, vnto the ſaide Complaynant to ioyne vp the demurrer that was depending betwen the ſaide Complaynante, and the ſaide Peter Street in the ſaide ſuite, or whither did the ſaide Court reſtrayne the Complaynant from ſoe doeing./

3 **Item** whither did yo^{u} enter the ſaide order trulie in ſuch manner as it was deliuered by the Court, and whither did yo^{u} deliuer a true copie thereof vnto the Complaynant not altering or ommitting anie thing that was then deliuered and pronounced by the ſaide Court./

4 **Item** whither did yo^{u} vppon the ſaide laſt daie of May deliuer vnto the Complaynante a Copie of an order dated the ſaide laſt daie of May, and whither did yo^{u} therein ſett downe that it was ordered by conſent that the Complaynant ſhould ſtay his further proceedinges at the Common Lawe in the ſuite there depending againſt Cutbert Burbage the Plf^{t}. in the ſaide Court of Requeſtes and whither did yo^{u} in the ſaide Copie make anie mention that

the Court had geuen libertie to the Complaynante to ioyne vp the aforefaide demurrer, or that the Court had ordered that he fhoulde not ioyne it vp, or did yo^{u} not altogither ommitt the fame./

5 **Item** whither did not the Complaynante come vnto yo^{u} the fame laft day of May in the afternone, and fhewe yo^{u} a note from his Councell, teftifying that the Court had by theire fayed order geuen him libertie to ioyne vp the faide demurrer, and whither did not the faide Complaynante then defire yo^{u} that the order might be foe entred, according as in trueth it was deliuered by the Court the fame daie and whither had yo^{u} receyued anie order of the faide laft day of May betwen the nowe Complaynant and the faide Cutbert Burbage vnder the hand of anie of the Maſters of the faide Court of Requeftes, before fuch time as the Complaynant came vnto yo^{u} and required yo^{u} to reforme the Copie wch yo^{u} had deliuered him as aforefaide./

6. **Item** whither did yo^{u} enter an order beareing date the faide laft daye of May, and therein amongeft other thinges fett downe that the nowe Complaynant fhould furceafe and ftay and no further profecute or proceede in the faide accion depending at the Common Lawe, and fhould not cauſe the demurrer aforefaid to be ioyned vp, or entred vntill the heareinge of the cauſe in the faide Court of Requeftes, and whither were yo^{u} procured or moued by John Maddox the Attorney of the faide Cutbert Burbage, and Cutbert Burbage, or either of them to enter the fame in fuch manner, and what fomme of money or other recompence did the faide Cutbert Burbage or anie for him, geue vnto yo^{u}, or anie other to yor vſe, for makeinge the faide entre, and for the Copie thereof./

7 **Item** did yo^{u} deliuer vnto the Complaynante a Copie of anie fuch order as is mencioned in the next precedent Interrogatorie, and when was anie fuch Copie firſt deliuered by yo^{u} vnto the Complaynant and whither did yo^{u} geue anie knowledge vnto the Complaynante that the faide Court had ordered that he fhould not ioyne vp the demurrer aforefaide./

8 **Item** whither doe yo[u] knowe that vppon the eleuenth day of Iune in the Two and ffortieth yeare of her Ma[ties] Raigne the faide Cutbert Burbage made oath in the faide Court of Requeſt*es,* that the nowe Complayn*a*nt had cauſed the demurrer aforefaide to be ioyned vp, contrary to the order of the faide Court, and whither did not the faide Cutbert Burbage therevpon in the vacation then following, procure a Purſiuant to be ſent downe into the Cuntery for the Complayn*a*nte, and whither was not the Complayn*a*nte brought vp to London by the faide Purſiuant, and carryed before one of the Maſters of the faide Court of Requeſt*es,* and then enforced to enter into a bond of Two hundred poundes, to appeare in that Court the ffirſt day of Michaellmas terme following, to anſwere the Contempt, and allſo to ſtand to the order of that Court vpon the heareing of the faide Cauſe, or otherwiſe to haue been com*m*itted to priſon./

9 **Item** whither did not the Complayn*a*nte appeare in the faide Court according to his faide bond, and whither was it not then opened vnto the Court, and teſtifyed by the Complayn*a*nt*es* Councell, that by the true order aforefaide made the faide laſt daye of May the Complayn*a*nt had libertie geuen him by the faide Court to ioyne vp the demurrer aforefaide, and that the Court was much abuſed, and the Complayn*a*nte much wronged by the practiſe of the faide Cutbert Burbage and the faide Maddox, and the Regiſter, in that behalffe, and whither was not the Complayn*a*nte therevppon diſcharged of the faide ſuppoſed contempt./.

10 **Item** whither did not the Councell of the Complayn*a*nte make a mocion in the faide Court of Requeſt*es,* after the heareing of the faide cauſe betwen the faide Complayn*a*nt and the faide Cutbert Burbage to this effect, That the faide Cutbert Burbage was no aſſigne in Lawe or equitie vnto James Burbage deceaſed, (late ffather to the faide Cutbertt) of the ſaid Theater, and therefore not able to maynteyne anie bill in his owne name towching the ſame, and whither did not the Councell of the Complayn*a*nte

drawe a cafe accordingly and put the fame into the faide Court. by lycence of the faide Court./

11 **Item** whither was it not ordered by the faide Court, by an order dated the ffirſt day of November in the Two and ffortieth yeare of her Maties Raigne vppon the motion of the Complayn*ant*es Councell, that the decree pronounced in the faide cauſe betwen the Complayn*a*nte And the faide Cutbertt Burbage ſhould be ſtayed from ſigning, vntill the caſe aforeſaide put in by the Complayn*ant*es Councell towching the faide cauſe ſhould be further conſidered of, by her Maties Councell of the faide Court./

LANE'S ANSWERS

Exam*inatio* Capt*a* xj° die Maij A° R*egni* Reg*i*ne Eliz*abethe* xliiij^to^ Sup*er* Jnterr*ogationes* ex*par*^te^ Egidij Allen quer*entis* miniſtrat*as*

Richard Lane of Courtenhall w^th^in the Countie of Northampton gent*leman* ſworne and exa*min*ed./

To the ffirſt Jnterr*ogatory* he ſaithe he thinckethe that there was hearetofore a bill exhibited in her Maties Courte of Requeſt^es^ by Cuthb*er*te Burbage p^lt^ againſt the nowe p^lt^ then defend^t^ for the ſtayinge of a ſuite wch the nowe Comp^lt^ had comenced in her Maties benche att weſtm*inſter* conc*er*ninge the Theater And for the more plainlie thereof this defend^t^ referrethe himſelfe to the recordes of that Courte./

To the 2 Jnterr*ogatory* he ſaithe that to his reme*m*brance ytt was ordered by the Courte of Requeſtes the laſt of May in the xlij^th^ yeare of her Maties Raigne amongeſt other thinges in preſence of M^r^ S*er*geant Harris and Mr Walter beinge ſeu*er*allie of councell on both p*ar*ties and by their conſentes that the ſute att the Com*m*on lawe betweene Cuthb*er*te Burbage, and Gyles Allen ſhoulde bee ſtayed, And that he this defend^t^ beinge deputie Regyſter of that Courte received an order ſubſcribed by one of her Maties

Councell in that Courte to that effecte to wch order he referrethe himſelfe And more ſaithe nott to this Jnterr*ogatory*./.

To the 3 Jnterr*ogatory* he ſaithe that to this defend^{tes} beſt rem*em*brance he this defend^{t} tooke a note of the ſaid order as yt was pronounced and thereof deliu*er*ed a true Coppie to the Comp^{lt} or ſome other on the Comp^{ltes} behalfe wthout addinge or deminiſhinge anie thinge to or from the ſame./

To the iiijth Jnterr*ogatory* he ſaithe that he this defend^{t} deliu*er*ed vnto the Comp^{lt} or to ſome on his behalfe a note of an order dated the laſt of May 42 Eliz*abethe* Reg*i*ne but whether the ſame was deliu*er*ed the day of the date thereof or not this defend^{t} doth nott knowe. Butt this defend^{t} ſaithe that yt was ſett downe in the ſame order as he remembrethe that the ſd Comp^{l} ſhoulde ſtay his further proceedinges att the Com*m*on lawe in the ſuite there dependinge againſt Cuthb*er*te Burbage the Comp^{lt} in the ſaid Courte of Requeſt*es*. And as touchinge the ioyninge vpp of the demurrer in this Jnterr*ogatory* menc*i*oned this defend^{t} doth nott knowe that he made anie menc*i*on in his note touchinge the ſame./

To the vth Jnterr*ogatory* this defend^{t} ſaithe he doth nott remember that vppon the laſt day of May in the xlijth yeare of her Maties Raigne in the afternoone of the ſame day or att anie other tyme that the ſaide Allen did ſhewe this defend^{t} anie note from his councell teſtifyinge that the Courte had by their ſaid order gyven him libertie to ioyne vpp the ſaide demurrer Neither doth this defend^{t} remember that the Comp^{lt} ſo deſired that the Order might be ſo entered [*But this defend^{t} faith that the Comp^{lt} came often tymes vnto him* (stricken out)] (wch yf the ſaid Comp^{lt} had), yett neu*er*theles this defend^{t} was to take noe notice thereof from his Councell, but to enter the ſame as yt was p*r*onounced by the Courte./ and as ytt was confirmed vnder the hande of one of her Maties Councell of the ſame Courte./

To the vjth Jnterr*ogatory* he ſaithe that there was an order deliu*er*ed into the office to be entered by John Maddox or ſome other

on the behalfe of the ſaid Burbage dated the laſt of May ſubſcribed by one of her Maties Councell of the Courte of Requeſt purportinge the ſtaye of the ſute as in this Jnterr*ogatory* is mencioned. wch he this defend^t^ afterward*es* cauſed to bee entered into the Regeſter accordinge to his warrant, And as touchinge the receyvinge of anie money or other recompence or promiſe of anie from the ſaid Burbage or Maddox or anie in their behalfes other then the ordinarie fees due to the Regiſter for the ſame this defend^t^ denieth the receipte of anie money or other conſideracion whatſoeu*er*.

To the vij^th^ Jnterr*ogatory* he ſaithe that after the receipte of the ſaid order ſo ſubſcribed as aforeſ*aid* ytt was lawfull for this defend^t^ to del*iuer* coppies to anie p*er*ſon that woulde require the ſame but howe manie Coppies or to whome the ſame were del*iuer*ed or when this defend^t^ doth nott remember; Neither doth this defend^t^ remember that he this defend^t^ gave anie notice to the p^lt^ otherwiſe then the order doth p*ur*porte./

To the viij^th^ Jnterr*ogatory* he ſaithe that as touchinge the affid^t^ in this Jnterr*ogatory* mencioned he referrethe him ſelfe to the booke of entryes, And as to the reſt of the Jnterr*ogatory* he cannot c*er*tainlie depoſe/

To the ix^th^ Jnterr*ogatory* he ſaithe that as touchinge the apparance of the ſaid Allen he this def^t^ referrethe himſelfe to the booke of apparances kepte in that behalfe. And as touchinge the diſcharge of the ſaid Allen his contemptes or anie other mocion made or order taken in the ſaid Cauſe this defend^t^ referrethe himſelfe to the bookes of orders kepte in that behalfe./

To the xth Jnterr*ogatory* he ſaithe that he thinketh that there was mocion made to theffecte ffollowinge viz that the ſaid Cuthb*er*te Burbage was noe aſſignee in lawe or equitie vnto James Burbage deceaſed late father to the ſaid Cuthb*er*te Burbage of the Theater and therefore nott able to manteyne anie bill in his owne name

touchinge the ſame. And ſaithe that by the direccion of her ma^{ties} Councell of the Courte of Requeſtes there was a Caſe d*eliuere*d into the ſ*aid* Courte vnder the hande of M^{r} S^{r}geant Harris beinge of Councell wth the ſaid Allen wch this defend^{t} hath readye to ſhewe to this ho. Courte.

To the xjth Jnterr*ogatory* he ſaithe that vppon the 5th of Nouember 42 Eliz*abethe* Reg*i*ne yt was ordered by mocion of the p^{ltes} Councell that the decree p*ro*nounced in the ſaid Cauſe betweene the ſ*aid* Comp^{l} and the ſaid Cuthb*er*te Burbage ſhoulde be ſtayed from ſigninge till the Caſe aforeſ*aid* were further conſidered of./

[Signed] p*er* me Ric*ard*um Lane.

Volumes I–XII of UNIVERSITY STUDIES are each complete in four numbers.

Index and title page are furnished for each volume.

Single numbers (excepting Vol. II, No. 3) may be had for 75 cents each.

A few copies of Volumes I–XII, complete in numbers, are still to be had.

All communications regarding purchase or exchange should be addressed to

THE UNIVERSITY OF NEBRASKA LIBRARY

LINCOLN, NEB., U. S. A.

PRESS OF
THE NEW ERA PRINTING COMPANY
LANCASTER PA.

.N3

VOL. XIII OCTOBER 1913 NO. 4

UNIVERSITY STUDIES

PUBLISHED BY THE UNIVERSITY OF NEBRASKA

MAR 3 1933
NATIONAL MUSEUM

COMMITTEE OF PUBLICATION

C. E. BESSEY
F. M. FLING
P. H. FRYE
P. H. GRUMMANN
L. A. SHERMAN

CONTENTS

I. THE THEORY OF GREEK TRAGEDY.....*P. H. Frye* 299

II. ON THE APPLICATION OF THE PRINCIPLES OF GREEK LYRIC TRAGEDY IN THE CLASSICAL DRAMAS OF SWINBURNE..... .....*Olivia Pound* 341

III. ENGLISH INTERJECTIONS IN THE FIFTEENTH CENTURY *Mary Crawford* 361

IV. ON INDEFINITE COMPOSITES AND WORD-COINAGE *Louise Pound* 407

LINCOLN, NEBRASKA

UNIVERSITY STUDIES

VOL. XIII OCTOBER 1913 No. 4

I.—THE THEORY OF GREEK TRAGEDY

BY P. H. FRYE

It is not infrequently objected to the practice of generalizing on literary topics that it tends to transform what is properly a creature of flesh and blood into a lifeless, if symmetrical, figure of abstraction. In some respects the charge is just. To suppose that Sophocles wrote the *Antigone* in conscious illustration of a dramatic formula, would be totally to mistake the process of literary creation. He wrote it because he liked the subject and found it suggestive: as we say nowadays, he saw something in it. But even in this case it is perfectly legitimate to analyze and define the kind of thing that appealed to him and the kind of thing that he succeeded in making out of it as far as his impressions and methods are uniform. In other words, it is possible to determine the character of his work as a whole even at the risk of neglecting the specific play of feature and circumstance which lends every individual performance its own peculiar vivacity. And the same sort of treatment is equally feasible with the body of Greek tragedy—or for that matter, with tragedy considered as a universal *genre*.

And further, even though the Greeks, like other tragedians, worked freely, according to their own genius, in the stuff that pleased them, without reference to rule or prescription, even so it is none the less certain that they proceeded in accordance with certain general ideas and habits of thought. And in any case in order to understand what they have done, we should naturally have to take it up in some general expression, which at most would

represent, not necessarily their manner of creating it or our manner of enjoying it, but merely our manner of disposing of it. No one pretends, I suppose, that the physical or mechanical principles which help us to make sense of the rainbow, offer any adequate equivalent for our joy in it, or even that it was ever made in deliberate demonstration of such principles. And while I should hardly care to institute a comparison between scientific and critical generalization, there is sufficient analogy between the two cases to illustrate the fact that as the sole condition of dealing intelligently with a number of details, we are obliged to gather them into our minds in a broad and systematic way. And while again I would not be so rash as to say that any dramatist ever harboured any such views as I am about to utter concerning Greek drama; yet I do believe that some such conception—if not mine, then that of another more happy—is involved in that drama and is a fair expression of the manner in which it arranges itself, when it does arrange itself, in our heads. For after all it is necessary to remember that the creation of a play and its comprehension are two very different things.

On the other hand I am as far from pretending to say anything novel as I am from expressing the visions and raptures of genius. Not only has Aristotle occupied this ground before me; but he has in some sense told the whole story once for all. Not that every just remark which has since been made on the subject, derives directly from Aristotle. But while it would be ridiculous to father all subsequent ideas upon him, yet it is true that whatever is justly said in this matter does array itself naturally under his authority, almost as an explanation or extension of his teaching. If I can only classify the facts, therefore, from a single point of view so that they will all hang together and take on that air of intellectual consistency which results from the possibility of considering a number of particulars in one light and under one angle, I shall think my purpose satisfactorily accomplished. The aim of criticism must always consist, in the first instance, in making its subject intelligible by reducing it to a single set of relationships.

I

Like every other work of literature a tragedy is the product of two factors. There is, first, the crude stuff or substance, fact or invention—the "myth" or "fable," as it used to be called, the "story," as it is called nowadays—which serves as the foundation of the action; and second, the handling or treatment, the "art," which gives this raw material its literary value. It is only by a kind of license that we can speak of an event, whether real or imaginary, as a tragedy. In such a case we are merely availing ourselves of a handy theatrical figure. Literally we are justified in saying at most that such an occurrence might possibly yield a tragedy if properly worked up and presented. Even in the common manner of speaking the force of the figure depends on a recognition of the necessity for dramatic elaboration for genuinely tragic effect. In other words, a tragedy is not a work of nature but of art.

Like the treatment, however, the myth or story itself, upon which the tragedy is founded, should have a special character of its own. It is probably a vague recognition of the circumstance that every transaction indifferently is not proper material for tragic handling, which confines the popular application of the term to certain occurrences in real life, however capricious and inexact this application of the word is likely to be. In short, tragedy is not wholly an affair of manner any more than it is wholly an affair of matter. The substance must be suitable; and it can be so only when it is of a sort to violate our feeling of moral congruity or fitness. That is to say, the tragic story or fable should involve a discrepancy between our sense of fact, as illustrated in the incidents of the action, on the one hand, and on the other, our conception of justice and right reason. And it is just this disheartening consciousness of inconsistency, implicit in the perception of the dramatic data, as between our knowledge of things as they are or seem to be and our vision of them as they should be, which it is one of the duties of the tragic dramatist to reinforce and deepen by his treatment.

At first sight it may seem something of a paradox to rest trag-

edy upon the same general basis, the appreciation of incongruity, as that upon which it has become usual to rest comedy. And yet it has been observed again and again that as far as the mere dramatic substratum is concerned, there is no essential difference between tragedy and comedy: the same premises may serve for either according to circumstances. As Vinet, for one, has pointed out, the subject of *Mithridate* is identical with that of *l'Avare*—the fifth scene of the third act in the former play utilizing exactly the same situation as the third scene of the fourth act in the latter; while between *Mahomet* and *Tartufe,* and *Andromache* and *Ricochets,* to mention only obvious instances, there is an unmistakable likeness of the same kind. And yet how different the effect! The truth is, incongruity may stir very different emotions under different circumstances.

In the case of comedy it is the sense of decorum and convention, rather than any graver feeling, which is offended. A violation of the proprieties, an inconsistency of character, a contrariety of circumstances—of such is the fabric of comedy. In spite of its tragic possibilities the *Misanthrope* arouses, as a matter of fact, no profound distrust, it stirs no serious misgivings. That a prig of Alceste's stamp should so far belie his professions as to fall in love with a trifling flirt like Célemène, arouses much the same feeling, under Molière's management, as that a man in irreproachable evening clothes, to borrow an example from Professor Sully, should slip and fall into the mud. To the intelligent observer the one experience is, of course, much more interesting than the other. The latter is wholly superficial and fortuitous. The former is rooted in human nature and furnishes a better pasturage for that sort of intellectual curiosity and amusement which it is the business of the comic poet to elicit from his themes as it is the business of the tragic poet to elicit from his the motifs proper to his own *genre.*

In the case of tragedy, on the contrary, the incongruity is such as to shock profoundly the moral prepossessions of the race—to shake, if not to unsettle, confidence in the moral order, in the moral reality of the universe. The sacrifice of a girl so innocent and ingenuous as Iphigenia to the indirections of her father's am-

bitious policy or that of a woman so elevated and disinterested as Antigone to state's reason and municipal convenience, is in itself a direct attack upon the observer's faith in a supreme equity, in a just apportionment of human lots. Nor is it otherwise with *Mithridate* as compared with *l'Avare*. The spectacle of a ravenously avaricious character like Harpagon in the throes of a passion so extravagant as love, presents an extremely curious and amusing case of ethical casuistry—nothing more; while the exposure of Monime in her maiden decency to the jealous inquisition of her tigerish master is enough to confound belief in the equitable regulation of mortal affairs.

It is this sort of thing that I should like to call the tragic qualm —this feeling of insecurity and confusion, as it were a sort of moral dizziness and nausea, due to the vivid realization, in the dramatic fable, of a suspicion which is always lurking uncomfortably near the threshhold of consciousness, that the world is somehow out of plumb. Herein lies the genuine "clash" of tragedy, as it has been called—not in a mere collision of persons or interests or even of ideas within the confines of the play itself, but rather in the contradiction life is perpetually opposing to our human values and standards.

To be sure, our sensibility for this sort of thing is rather blunt at present. This is not a tragic age. Nor is it essentially a moral one. But for all that there are times when the tragic qualm, inherent as it is in the nature of things rather than of art, obtrudes itself irresistibly. The wanton assassination of the most inoffensive of our presidents is a case in point—as is the senseless obliteration of an entire population by earthquake, volcanic upheaval, or other cataclysm. I grant that even these tremendous catastrophes are beginning to lose their terors for the popular imagination in the rapid extension of a civilization preponderantly material. But at the same time, though such matters are not of themselves proper for tragedy for a reason that I shall assign in a few minutes, yet they do still stir in thoughtful natures the kind of feeling peculiar to the tragic fact as such; they raise again the horrifying old distrust of nature and her dealings with her creature. Like every lapse of reason, like every intrusion or irruption of the irrational

or the unintelligible into the sphere of human interests, they threaten again the security of man's dearest illusions, they trouble his spirit and fill him with nameless apprehensions for the sanity and good faith of that order in which humanity with its quivering and importunate conscience is helplessly and irrevocably involved. For after all the tragic qualm is perhaps nothing more or less than a sudden and appalling recognition of our desperate plight in a universe apparently indiscriminate of good and evil as of happiness and misery.

Without the tragic qualm, then, in the dramatic data there is no tragedy. But this is not enough; it is but preliminary—in Plato's words, τὰ πρὸ τραγῳδίας. It is necessary that the qualm should be allayed, that the quarrel between the certainties of experience and the exactions of conscience should be composed, and that confidence should be restored. In addition to making sure of the emotions proper to his stuff in itself, the poet must also manage in such a way as to answer the question mutely propounded by his fable: if such things can be, what becomes of the law of eternal righteousness as given in the heart of man? Such is the question which the drama, as "the imitation of an action," forces relentlessly upon the attention of the audience. And the whole function of tragedy, as a literary *genre,* is to resolve this doubt, in one way or another, through the medium of the action too, but of the action as a dramatic, not as an actual, performance. Otherwise there is no art—nothing but a dull dead stereotype of reality with all its contradictions, incoherences, and inconsequences—and with all its resultant incredibility. Senseless assassination or aimless annihilation may indeed present a problem, but the problem is insoluble. And where there is no solution, either by fault of the circumstances or by fault of the poet, there is no genuine tragedy.

If I may venture for a little while into the thicket of critical exegesis, this or something very like it seems to me to be what Aristotle had in mind in speaking of the "purgation of the passions" as the end of tragic poetry. The eventual relaxation of the emotions of pity and horror, which were characteristic of the tragic qualm as it affected the sensibilities of the Greek by reason of certain conditions which I shall have the temerity to discuss be-

fore long—the eventual relaxation and alleviation of these emotions by some adjustment or other, after their violent excitation by the representation of the action, appears to satisfy the Aristotelian definition of tragedy, as δι' ἐλέου καὶ φόβου περαίνουσα τὴν τῶν τοιούτων παθημάτων κάθαρσιν as accomplishing through pity and horror the purgation of these selfsame passions. But in any case—and this is the point after all—what is indisputable is the sharp distinction drawn by the *Poetics* between the myth and its handling, between the action as an imitation and an initiation—or in other words, between life and literature. And in the light of the distinction it can hardly be denied that Aristotle regarded as indispensable some such final accommodation as I have tried to indicate. Without some such reconciliation of experience with conscience, without some adjustment of the course of events to the principles of human nature he could not have conceived of a tragedy in the proper sense.

It is through this solution, as I have called it in customary fashion, that tragedy acquires its significance, as it acquires its poignant sense of reality through its presentation of the tragic problem implicit in its imitation of an action. While it is by the latter avenue that life enters tragedy, ideas enter it through the former. In this manner verisimilitude on the one part and moral consistency on the other become necessary attributes of the tragic poem. But even in the first case, in the case of the fable itself, it is as much the dramatist's vision, his *Weltanschauung,* which is involved as his observation. The success of his action, even as imitation, depends mainly upon his eye for the problem. What affects the audience is his fidelity, not so much to a certain order of phenomena, as to a certain order of emotions. In a word, the verisimilitude of his drama, and hence its reality, is measured, in the last resort, not by the exactitude with which he is seen to reproduce the spectators' own sensations, but by the justice with which he is felt to have voiced the tragic qualm.

II

Of the technical elements of tragedy in general I have said nothing. I am concerned with what may be called its intellectual

bases alone. I have assumed the dramatic *genre* with all its appurtenances and properties. And I have taken for granted as sufficiently obvious of itself that the rational premises of tragedy are expressed and to a certain extent conceived in terms of sensation and emotion. The kind of story in which the problem is sensibly embodied and through which the tragic qualm is emotionally communicated, together with the manner of treatment whereby the solution is intimated, will depend upon the character of the drama and its inspiration. Naturally too the specific feelings to which the tragic qualm is determined, will vary with the dramatist's sense of the tragic problem—as will the pacification with his convictions religious or otherwise—as these may be affected by his natural disposition and the civilization in which he finds himself. If the tragic problem of Shakespeare and the Elizabethans is compared with that of Sophocles and the Athenians, it will be found to arise from quite another notion of the fatal incongruities of life and to be differently constituted with respect to its emotional notes, while the solutions tacitly proposed by the two dramas will naturally diverge to an equal extent.

With Shakespeare the tragic dissonance or "clash" would seem to engage as between man's possibilities or pretensions and his fate. The incompatibility of his desires and aspirations, which are illimitable, with the conditions which actually dispose of him—mean, trivial, absurd, belittling as they may be, but always at odds with his higher nature and impulses and frequently ruinous of his life and happiness—something like this would appear to be what moved Shakespeare most in his graver moods. The contrast between what humanity might or should be and what as a matter of fact it may become by the accidents of existence—herein lies the discord at the root of his tragedy. A being of inexhaustible capacity, noble in reason, infinite in faculty, godlike in apprehension, reduced to a mere quintessence of dust—a Hamlet whose world is out of joint or an Othello "fall'n in the practice of a damned slave," such is the Shakespearean protagonist.

> This man so great that all that is, is his,
> Oh, what a trifle and poor thing he is!

In short, Shakespeare's tragedy, like romantic tragedy in general, is a tragedy of circumstances; hence the "low" and "comic" elements with which pseudo-classicism used to reproach it. To regard a business like the graveyard scene in *Hamlet* as a side issue or a sop to the groundlings, as apologetic criticism was once fond of doing, is to miss the point. There may be some excuse for disliking it when done, but Shakespeare knew what he was about when he did it. In its violent affront to the ideal dignity of Hamlet's situation at the moment when he is tottering precariously on the edge of his own grave as of Ophelia's, in its fantastic contradiction of the Hamlet of abstraction by the Hamlet of fatuity it is of the very essence of Shakespearean tragedy. The objection that such a scene is out of keeping with the seriousness of the emergency is true enough; but it is equally pointless, for the tragedy consists in just this affront to human dignity, this outrage to the sacredness of the individual. That such an objection should ever have been made, argues a gross misunderstanding, not only of the manner in which he conceived the tragic problem but also of the nature of his tragic irony, so different from Sophocles'. "That is the glory of Shakespeare," Tennyson is reported to have said, "that he can give you the incongruity of things." Even about his comic characters in their more sober aspects hangs the atmosphere of fortuitous calamity. It is what gives Falstaff his grip upon our sympathies; he ought, it seems, to be so much nobler than he is. For Shakespeare's mixture of comic and tragic is not confined to a mere intermingling of scenes of one sort with those of another; it resides in a kind of duplicity of conception, which is, perhaps, humorous rather than comic. Just as the lighter characters like Falstaff may catch a reflection of pathos from being in some manner the victims of untoward circumstances, so his tragic characters too may be slightly ridiculous for the same reason, like Othello gulping Iago's inuendoes or Macbeth gaping at the witches. At all events, from the nature of the case his tragic heroes, for all their wilfulness and violence, are always a little pitiable as well as pathetic, like poor old Lear. About them all is a little something of Coleridge—one reason, perhaps, that he is able to speak of them with so much intelligence and sympathy.

Such is, no doubt, the unavoidable weakness of a drama in which fatality has been displaced by necessity. If there is a principle presiding over the course of Shakespeare's action it is the law of causation, in accordance with which the quarry is finally run down by a pack of consequences, more or less incidental, with whose inception his own character has little or nothing to do, however it may appear, as the only constant and predicable element, to determine the outcome, very much as the duration of the hunt might be said, regardless of the hounds, to depend upon the endurance and cunning of the fox. After all, the problem set by Shakespeare is simply how a man of such and such possibilities could go to the ground. The answer consists in tracing the circumstantial conspiracy, the causal succession by which he has been brought to such a pass, together with its effect upon his character. Transfer Hamlet and Othello, and the tragedy becomes unthinkable. How long would it have taken the former to unmask Iago or the latter to settle with Claudius?

Hence the curious result, as compared with the Greek, that whatever their fortunes, Shakespeare's protagonists are morally accountable only for their intentions. It is impossible, of course, to deny that Hamlet pays the penalty of his acts, such as they are, in the sense that he endures the event; but he is in no wise answerable to the audience for the predicament in which he finds himself, as is, for example, the Hippolytus of Euripides. On the contrary, not only does Macbeth suffer the consequences of his conduct, he participates in their odium as well, on the strength of the malevolence of his motives. The latter is adjudged criminal, the former is not. At the same time there is a striking want of concurrence between verdict and sentence. Inoffensive as he is, Hamlet comes off no better than Macbeth. The tragedy is the same in both cases—the ruin of a promising career. In the one instance justice is felt to have been done; in the other, not. Why, then, the identical issue? In short, for the tragic problem implicit in his representation of life Shakespeare has no moral solution. He seems to say: such is the way of the world; to be sure, it offends your sense of fitness that humanity should be liable to these

wretched contingencies, but what would you have? Life

> is a tale
> Told by an idiot, full of sound and fury,
> Signifying nothing.

In default of a final impression of moral consistency as between the hero's deserts and his apportionment, the consternation of the spectators is composed by a feeling which is left with them of the sympathetic superiority of the victim over the forces to which he succumbs. In spite of his insufficiency it is impossible not to rate Hamlet or Lear above the whole conspiracy to which he falls a victim. In this way the tragic qualm, as I have called it, is allayed after a fashion; the audience is reconciled to the catastrophe—otherwise there would be no tragic effect at all. Such a conclusion, however, is purely sentimental and lenitive; there is no reassertion of the moral order, no catharsis of the passions to which the qualm is due. It is not by his solution, to speak exactly, that Shakespeare is great. Perhaps the kind of incongruity on which he based his drama is incapable of moral reconciliation. At all events, it is, as a matter of fact, to the terrific vividness with which he pictures the plight of humanity in a world of unscrupulous eventualities and draws its consequences for the character of the individual that his greatness is due. Hence the individuality of his drama and its title to the common designation, tragedy of character.

Such, as I conceive the matter, are the fundamental ideas of Shakespearean tragedy, which is in most respects a fair type of romantic tragedy in general. By comparison, the problem of Greek tragedy has to do with the effect of an action, as such, in promoting human happiness or misery; while the solution seeks to justify the issue by attaching to the action concerned a corresponding moral quality of good or evil. It is not a concern for happiness in itself which differentiates the Greek tragedy from the Shakespearean; on the whole, it is rather a concern for the correlation of happiness and righteousness. But as far as the representation itself goes, all tragedy, as a matter of fact, is alike eudaemonistic in referring immediately to the instinct of happiness

as sole umpire of the *dénouement* or *metabasis*. If life were suddenly to be conceived as a discipline of suffering, a school of character alone, without reference to the welfare of the individual, our tragedy would have to be recast. I do not see how Lear or Oedipus could be regarded, on such a supposition, as a tragic figure. Indeed, in the *Oedipus Coloneus,* where Sophocles has taken this view to some extent and has modified the postulates of tragedy in some measure to suit it, the impression produced is not wholly a tragic one. The shock to the sensibilities upon which depends the effect of the action in tragedy, as distinguished from that of its resolution, consists capitally in seeing humanity fail, by some outrageous *contretemps* or other, of the well being to which it instinctively thinks itself entitled. And the peculiar feeling or quality of feeling which makes the qualm of one tragedy differ from that of another is due, not to a care or a neglect of such a natural expectation, but to the particular manner in which it is raised to be disappointed—that is, finally to the character of the two parties to the collision, that which serves to raise the hope or expectation and that which serves to disappoint it.

Now in Shakespeare this collision or clash was seen to grow out of an inconsistency between the fairness of human promise or appearance and the dubiousness of mortal performance—or in terms of feeling, between the expectations raised by the hero's personality and the disappointment caused by his subsequent career. In Greek tragedy, on the other hand, preoccupied as it is with the ends of action and its relation to prosperity, the collision originates in a discrepancy between the hero's conduct and its consequences—between the favourable expectations raised by his action and the deplorable results that actually ensue from it, as when an act calculated to ensure success is in reality productive of calamity. But of the probable outcome of an act there is morally only one prognostic—the intention or purpose of its author. Acts of which happiness may consistently be predicted, whose termination ought to be prosperous, are those whose intentions are good—or at least innocent. When such an act, deserving in itself of approval, turns out disastrously, like Antigone's celebration of her brother's funeral rites, there is bound to follow a strong feeling

of amazement and dismay. The conscience is deeply shocked; and there arises that peculiar sense of vertiginous insecurity which I have called for convenience the tragic qualm.

In this connection it is worthy of remark that in Greek you are always pretty sure what the protagonist is going to do. He seldom or never disappoints you; whereas in Shakespeare the protagonist's behaviour is always more or less doubtful until it is settled forever by the inertia of the action. That Orestes will kill his mother, is certain from the first; he has come to do so and do so he will—he acts consistently in the spirit of his intention: what is uncertain is the consequence of his doing so. Whether Hamlet will kill the king or not, is always pretty much a matter of conjecture before he has done so. In fact that is just the question. In the one case it is Hamlet's character which is on trial; in the other case it is Orestes' act.

From this shift of dramatic emphasis has resulted a difference in the treatment of character which is no less significant of the romantic tragedy as compared with the Greek. While the Greek protagonist is calculated solely with reference to the action, whose moral character is reflected upon him; the Shakespearean has developed a character of his own which is partly implicated in the action but is also partly independent of it and uncommitted to it. The former is an agency, not an end in himself. It is not he to whom the action is indebted for its main interest and its peculiar effects, but contrariwise. In consequence he exists only in and for the play; or what amounts to the same thing, there is no more of him than is necessary to motive the drama, with which he is virtually coterminous. On this account he has a simplicity, breadth, and integrity—he possesses a general, abstract, and typical value—to which his modern rival can make no pretension. He represents the fates and liabilities of human life rather than the varieties and variations of human character.

The Shakespearean character, on the other hand, as a personality more or less inviolable and sentimentally superior to the mere circumstances of his lot, appears to live with a larger life than that of the action, with which his character is only partially identified. Who ever dreams of measuring Hamlet or Othello or

Lear—or even Macbeth for that matter—solely by what he does? Such is the variety, richness, and complexity—such is the ethical interest of his character that it is impossible to confound him with his fate, even while one bewails the pity of it. In retaining his apartness and distinction he preserves a kind of saving grace or eminence in his downfall which makes it dramatically endurable. He remains uncompromised because he seems so much more important than the catastrophe, or indeed, than the whole play itself. He stretches away, as it were, indefinitely beyond the boundaries of the drama in which he figures—often meanly enough in comparison with the impression of his psychological significance. There is hardly one of all the company who does not occasionally let slip some evidence to a trait of character which is not involved in the piece or required by it—some hint or reminiscence as though of a previous state of existence. Indeed, so complex is their consciousness that it occasionally splits up or divides against itself to the detriment of the dramatic action. It is as much Hamlet's dissension with himself as anything else which embarrasses the tragedy. For these reasons it is possible to talk—yes, and dispute so much about any of Shakespeare's main personages: there appears to be so much more of them than the action is adequate to account for that the remainder, the extra-mural portion, is an inexhaustible subject of speculation and conjecture. Hence the fascination of what may be called the private character of his *dramatis personae,* which manifests itself in innumerable odd ways—in biographies of his heroines' girlhood, in discussions of Hamlet's whereabouts and occupations before the curtain went up, even in references to Lear's and Cordelia's compensations in another world.

That the stage has gained in a way by this treatment of character is undeniable. But what it has gained in one way it has lost in another. Though it has gained in curiousness, in variety, or what we like to call human interest; it has as surely lost in dramatic and literary consistency. That the characters should outgrow the action and cease to be solely the creatures and servants of the drama, is impossible without impairing the accurate adjustment of parts and functions, the nice application of means

to ends upon which depends the perfection of art in general and of dramatic art in particular—without introducing an element of excess or superfluity, a principle of disorder which tends to warp and sprain the play. The fact is that the Shakespearean *dramatis personae* are too big for the mimic world which they feign to inhabit; they are themselves realities masquerading in a world of fiction; they belong, not to the stage, but to existence. Dare I say so—they are too natural, particularly the women? I confess that to me at least it seems at times a little incongruous, even a little grotesque to watch these intensely animated characters, complex with all the complexity of life, gesticulating, grimacing, frowning, smiling, running the gamut of a thousand expressions and inflections, bustling about with all the irresponsible vivacity of nature, "in a fiction, in a dream of passion," amid a factitious and highly artificial scene clapped together transparently enough out of a few bits of painted canvas, a rickety slide or two, and a set of flimsy hangings, the whole bounded by an arc of garish footlights and a row of staring spectators. On the contrary the Greek actor in his buskins, his mask, his robe and trappings, with his restrained gestures and intonations, may seem a singular figure when deprived of his appropriate accompaniments. But put him in his place, in the midst of a scene and an action carefully insulated, to say the least, from actuality; and he ceases to be grotesque or incongruous: he and his surroundings are of a sort.

In one particular, however—in the nature of the actions imitated and in the fidelity of the imitation it must be acknowledged that Greek tragedy bears no little likeness to the Elizabethan—quite enough, indeed, to justify the numerous parallels that have been drawn between them and even to support the contention that Shakespeare's is the likest of all tragedy to the Athenian. Nor is the similarity so very extraordinary after all. There is naturally a kind of family resemblance among all the members of a *genre*. From this particular point of view life is bound to present pretty much the same aspect whoever views it. The frightful rivalry and competition, the monstrous waste of life, the atrocious expense of suffering, which are the very conditions

of existence on the planet—from such sources all tragedy indifferently must draw its materials, which are much more elemental and simple than the comparatively artificial and complex interests of comedy. But it is true that the Greeks and Shakespeare are alike in looking at these things far more piercingly and nakedly than the poets of any other nation. They see the facts more nearly and distinctly, through fewer veils and conventions. And there is, in consequence, a kind of unflinching realism about their representation of the tragic data which carries them a long way in company. Parricide, matricide, suicide, infanticide, rape, incest, insanity, sacrilege—these formed the stock in trade of the one as of the other. But such a likeness is more or less superficial, touching the matter rather the spirit. It is the resolution, the accommodation between experience and conscience, which is vital. And here, it must be acknowledged, the Athenian takes leave of the Elizabethan. While the latter was content to exhibit "the weary weight of all this unintelligible world" with hardly more than a sentimental palliative for its atrocities, the former boldly attacked the problem involved in the frustration of human happiness, and by reconciling the discrepancy at its root, succeeded in allaying the spectators' apprehensions for the miscarriage of justice, at the same time relieving and relaxing the passions excited by such a spectacle in a manner to suggest the Aristotelian metaphor of a moral catharsis.

Specifically, his problem, as he saw the riddle of the universe reflected in the legendary and heroic mischances with which he worked, was this: why should an act which is performed with virtuous or blameless intent and which is to all appearance good and meritorious in itself, work irreparable mischief for its author? In order to answer this question he undertook to show, or rather to convey the impression, that such an act, whatever its motives, was in reality committed in violation of moral law and that so far from being innocent or even indifferent, it was, as a matter of fact, subversive of order and discipline. In other words, it was not merely inexpedient but wicked and on that account properly liable to disaster; while its perpetrator himself was not merely un-

lucky or unhandy, but criminal as well and therefore obnoxious to correction and punishment.

To take Sophocles, the maturest and clearest expression of Greek tragedy, as an example—his whole theatre seems to presuppose some universal and abstract principle of law and order, *ὥστ' ἄγραπτα κἀφαλῆ θεῶν νόμιμα,* presiding over existence—a kind of moral police, to put it crudely—which provided automatically and of itself for the regulation of human affairs and for the execution and removal of disturbers, who, if suffered with impunity, would unsettle the equilibrium of earthly things. Any deed, done in contravention of this principle or law, however innocent might be its motives, was essentially criminal, as involving in fact a breach of the moral peace. Ignorance itself, like rectitude of intention, constituted no defense, though dramatically they both served to recommend the offender to the sympathies of the beholders—in short, to qualify him a tragic character; for otherwise his fate would have no particular interest—it would be a clear case of retribution, raising no doubt and occasioning no qualm. As for the remoter mystery between the law and the culprit's conscience—with this Sophocles has little or nothing to do; he is content to leave such matters, as too high for him, between the knees of the gods. Only once, in *Oedipus Coloneus,* he attempts something like a vindication of their purposes. But as a general thing, what he is concerned for—and in this particular his preoccupation is sufficiently unlike ours to make its appreciation difficult—is to demonstrate the moral consistency of life as against a purely casual or mechanical coincidence and to assign to men's actions specifically human and intelligible values of good and evil in place of the neutral and noncommittal attributions of right and wrong to their good or ill success—

> *ὧν νόμοι πρόκεινται*
> *ὑψίποδες, οὐρανίαν*
> *δι' αἰθέρα τεκνωθέντες ὧν Ὄλυμπος*
> *πατὴρ μόνος, οὐδέ νιν*
> *θνατὰ φύσις ἀνέρων*
> *ἔτικτεν, οὐδὲ μή ποτε λάθα κατακοιμάσῃ·*
> *μέγας ἐν τούτοις θεός, οὐδὲ γηράσκει.*
>
> 315

Nor was this interpretation due to a confusion of nomenclature, as has often been assumed. Sophocles was no dupe of a vocabulary. Rather, if there were such a confusion of vocabulary at all, it was a concomitant result, with this interpretation, of the spirit of those who used the language. The conviction of the correlation of misery with wickedness, of prosperity with righteousness, together with what we should call the indifference to motives, which inspired the solution of Greek tragedy, was not confined to Sophocles and his fellow playwrights. It suffused the consciousness of the Greeks. The happy man was the good man—we have Plato's word for it in contradiction of the Sophists, who in their efforts to disintegrate traditional morality were beginning to question it—or as we say, for the idea is not without modern echoes, he was the man who had done well. In fact, so thoroughly was the identification ingrained in the popular mind that there was a general prejudice against misfortune as in itself an impairment of character. But while the Greek temper was consistently moral, it was consistently intellectual too. Not only were the unhappy obviously in the wrong; but since no one acted ill knowingly, all wrong doing was finally a form of ignorance or misjudgment—that is, an error of some sort. Ignorance too was criminal. And while this conception of conduct was not pushed relentlessly to its logical conclusion—for Aristotle seems to discriminate in debarring from tragedy what can be only the man of evil impulses—yet it did tend to turn the Greeks' attention from the motive-grubbing with which we are familiar and fix it upon the act and its consequences, which as a matter of fact furnish the only practical means of estimating the moral significance of character.

III

With these general considerations in mind it is possible to dispose more or less systematically and intelligibly of several details which are usually handled in a rather empirical and disconnected fashion as notations of fact rather than as consequences of a principle.

In the first place it ought to be clear from this point of view why Greek tragedy should manifest itself so frequently under a

sort of typic form which has been described as a conflict of duties. In the light of the recent discussion it is obvious that through some such opposition as this the particular problem with which this tragedy has to do, is at once set out in the strongest possible light and receives the most satisfactory and convincing solution. A protagonist, acting, as in the *Antigone,* with complete faith in the sacredness of his undertaking only to discover in the end that so far from acquitting himself of his obligations he has actually incurred the penalty of an offense as serious to all intents and purposes as the debt which he has endeavored to meet—such a character affords in his own person the most striking contrast between anticipation and fulfilment and at the same time suggests the most reasonable explanation of his disgrace. As his motives are the highest conceivable on the one part, so is the tragic anomaly of his fate the most shocking and bewildering; and as his transgression is patent and undeniable on the other part, so is the rehabilitation of the moral order equally certain and reassuring. In such wise the double requirement of Greek tragedy with respect to qualm and catharsis finds complete and ready satisfaction.

At the same time, simple as the matter seems when viewed in its proper connection, it is to this very source that much of the misunderstanding of Greek tragedy must be referred. Not infrequently has it happened that one of these obligations or the other has lost its authority for the modern conscience with a resultant falsification of feeling for the situation. In a humanitarian age it is not surprising that Prometheus' offense against the celestial ordinance should appear a trifle as compared with his services to mankind and that he himself should have come to be a purely sympathetic and romantic character, such as Shelley has done his best to familiarize us with. With a weakening of the ancient civic sense, too, something of the same sort has happened to Antigone. But nevertheless it was originally this strict antinomy of approximately equal duties which afforded Greek tragedy one of the fairest opportunities for the production of its own peculiar effects, not the least notable of which was the characteristic duplicity of feeling it aroused for the protagonist.

This impression, composed of the two emotions, pity and horror, by which Aristotle defines tragedy—just these two and no others—is to be accounted for in the same way and by the same order of considerations as before. Not that Greek tragedy might not produce other emotions too—as a matter of fact Aristotle himself has arranged for others; but such others are adscititious and incidental. Pity and horror alone are inherent in the idea of the species and essential to its formula. Since the action of the protagonist itself bears a double face or interpretation, in qualm and catharsis, the emotions of the audience are twofold also. In as far as it is well intended and directed to an end commendable enough in itself, it arouses pity for its devoted author upon whose head it recoils with such fatal effect; while in as far as it is mischievous in fact, as it violates the celestial canon and jeopardizes the established order, it must needs arouse an equal horror for the rash and impious agitator who has ventured to trouble the tranquillity of men and gods. For the blind and passive sufferer of a fate so dismaying as that required to produce the tragic qualm, pity is the only possible emotion; as is horror for the malefactor convicted of a felony sufficiently monstrous to justify the judgment which overtakes him and so to work the revulsion of feeling necessary to the catharsis.

I do not wish to insist upon the moral import of tragedy unduly: I know how reproachful such remarks must seem to my own generation. At the same time I can not leave this topic without a protest. While I do not think that tragedy ought to preach a sermon or read a lesson, it does seem to me that nothing can be more preposterous than the contention that Aristotle, in defining the *genre* by the emotions of pity and horror, meant to imply that its being is exclusively æsthetic, in the modern acceptation of the term, and devoid entirely of moral purpose or concern. As though pity and horror were necessarily immoral or amoral emotions! As though it were not a kind of misnomer to speak of them as æsthetic emotions at all! That there are emotions which are exclusively æsthetic even in the straightened significance now given to the word, I have no doubt. But no one whose judgment has not been warped by the perversions of a latter day

criticism would dream of classing pity and horror among them. For what is there so likely to move the latter as the spectacle of blind and infatuate iniquity; so likely to move the former as the spectacle of sudden and staggering adversity? The conflict of good and evil, I believe, is still, for all our sophistication, the surest and deepest of all emotional appeals. And in view of the facts I can conceive nothing more impudent than the pretension to range Aristotle among the partisans of such a doctrine as *l'art pour l'art,* because he has formulated tragedy in terms of the very emotions which are most closely identified with our moral perceptions.

At the same time, pertinent as is his notation of that drama with which he was acquainted, it is a mistake to assume that his definition is true for tragedy in general or romantic tragedy in particular. Since neither problem nor solution is identical, as I have tried to show, it follows that the characteristic sentiment of the latter will be differently constituted with respect to its emotional notes. I do not mean to deny that pity and horror are in some sense elicited by every tragedy. They are both present to some extent and in some manner from the very nature of the *genre.* The apparent moral obliquity of the catastrophe, which is the motive of the qualm—itself, as I have tried to show, a constant factor—is bound to raise a kind of horror, as also a kind of pity for the luckless actor. But these feelings are quite different in timbre from the passions to which the Greek play is conditioned by its peculiar interpretation of tragic actuality. They have not the same purity or the same consistency; they are not in a fixed and definite ratio decisive of the character of the drama; they are variable and indeterminate. As a rule the modern protagonist is either a pathetic character, like Othello, or an antipathetic one, like Macbeth. Otherwise, in default of a solution authoritatively moral, we should be unable to bear his fate, to which we are reconciled, as I have already suggested, in the one case by an impression of his sentimental superiority to his situation, in the other case by a conviction of the poetical justice of his downfall. The active principle in the first case is sympathy; in the second, disapprobation. But sympathy is not identical with pity, or dis-

approbation with horror. And even when our feelings for the modern hero are mixed, these are, on the whole, the sentiments between which we are divided. What pity and horror we feel are caught up and engaged with these more or less loosely.

For an exhaustive discussion of the subject, however, this is hardly the place. All I wish to do here, is to point out that these two passions, pity and horror, are critical of Greek tragedy alone; and though they may enter into the general description of any tragedy, yet it is misleading to use them as a universal definition of the whole *genre* without reference to specific versions of the tragic paradox and specific expedients for its accommodation. For as opinion changes with regard to the tragical contingencies of life—what they are and how humanity is to be reconciled to their existence; so must the feelings and sentiments voiced by the drama change also, and along with them the attitude toward the tragic character, whose qualifications will obviously be controlled by these very conditions. So it is with the modern protagonist. And it is by the same reasoning that Aristotle's discrimination against certain types as compared with certain others, is to be explained and justified.

The main difficulty with Aristotle's doctrine of characters seems due to the fact that it makes no provision for the prevailing pathetic or prevailing antipathetic protagonist of later tragedy—in particular, and the saying has been thought a hard one, it disqualifies Macbeth and Richard III. But the fact is that such a type is not Greek; it does not conform to the double *rôle* for which the Greek protagonist was cast. While it is possible, of course, to rationalize the ruin of a thorough-paced villain by the law which he has violated, yet his downfall causes no dismay and inflicts no pang; it is just what ought to happen. Hence it offers no moral problem; in the eyes of the Greek there was nothing tragic about it. On the other hand, the virtuous or pathetic character is unfitted to the part for a contrary reason. While the sight of such a person suffering an untoward fate, may indeed appear sufficiently enigmatical to trouble the spectator and awaken his suspicions, yet the very nature of the case precludes the possibility of a moral settlement. In the adversity of the just there

is neither reason nor consistency. As Aristotle says, it is simply shocking. While it does in reality express what is felt to be the tragedy of fact, while it has *Naturwahrheit;* it is from the Greek point of view utterly lacking in *Kunstwahrheit.* And the difference of our own feeling in this respect serves to measure the interval between the two tragedies. On this account the only possible protagonist for the Athenian was the sort that we have had in mind all along—the fallible character, neither wholly good nor wholly bad, but liable to error. As such he is subject to pity by his infirmity and to horror by his iniquity—he is amenable equally to the requirements of problem and solution.

In addition to these features of Greek tragedy, which may be regarded as primary inasmuch as they derive immediately from its postulates and are necessary corollaries of its definition, there are others mentioned by Aristotle as incidental and ancillary. Their presence is the test of a complex, as distinguished from a simple action, which hinges solely upon a *metabasis* or reverse of fortune, while the former may also include a peripeteia, an agnition, and a sensation (πάθος).[1] As a matter of fact, then, these secondary characters are merely special devices for reinforcing the emotional impression of qualm and catharsis, which, as he observes, is more impressive when the incidents of the drama occur contrary to expectation, and still more so when they occur by reason of one another.[2] So a peripeteia is defined as an effect

[1] Though Aristotle fails to mention πάθος with περιπέτεια and ἀναγνώρισις as one of the differentiae of complex tragedy, he discusses it immediately in connection with these other two as a third part of the μύθος. At the same time the *Prometheus Bound* is opened by a πάθος, if indeed the whole play is not one prolonged πάθος. Since the whole distinction is of no great importance in this connection, there is no particular use in discussing it here.

[2] δι' ἄλληλα. Hardly by cause and effect in the modern connotation, as the case of Mitys' statue at Argos proves. The connection in Aristotle's mind, I venture to think, was moral, not physical. Of course I do not mean to imply that Aristotle was without the notion of causal sequence and that he may not have had it in the corner of his eye in this case. But I conceive that his idea of cause in this instance would have included that of reason also; it would have involved an answer to the question why as well as to the question how.

by which an antecedent produces, not the consequence expected, but one entirely unlooked for and yet necessary and intelligible. In much the same way an agnition is the recognition by a character of some person or object of whose identity he was at first unaware. As such an effect is likely to cause a revulsion of feeling and a change of intention on the part of the character concerned, it frequently though not invariably involves a peripeteia. A sensation, as I have ventured to translate the term πάθος, is a particularly harrowing incident, which instead of being reported by messenger or otherwise, is enacted under the eyes of the spectators. As conducive of surprise and suspense, intensity and immediacy, these effects may be looked upon as elements of plot in the present connotation of the word. To be sure, they want the elaboration of the modern intrigue, where the dramatic action has come to be developed chiefly in the sense of the "interesting" as the *dramatis personae* chiefly in the sense of the "characteristic." But though they have remained subject to the primary uses of tragedy in the enforcement of problem and solution, yet their very presence should be a warning against a not uncommon manner of speaking as though Greek tragedy were deficient somehow in dramatic action and were largely an affair of declamation and recitation.

Such an insinuation is founded only in a serious confusion. It is not unusual nowadays to talk as though a lively and bustling stage or a picturesque and striking tableau were all sufficient evidences of dramatic quality. But if movement and stir, spectacle and panorama were indeed dramatic, then would vaudeville be justified of its triumph. Under the circumstances it is hardly otiose to remark that for genuine drama it is hardly enough to set the characters' legs in motion; their passions must be aroused as well. It is not so much motion as emotion that makes drama. Mrs. Siddons is said to have had a way of pronouncing Lear's curse, while holding her arms rigidly at her sides, with an effect that was terrible beyond gesticulation. Only as the outward act gives rise to feeling or expresses it, does the act itself become dramatic. It is not mere action but significant action that counts. Nothing could be busier than a scene of Victor Hugo's. It is full of sound and

fury, commotion and vociferation; and yet when you come to look inside for the internal drama which all this outward show and circumstance should body forth, what hollowness and vacuity you find! While as for the vaunted violences of the romantic stage they too miss the mark as often as not. Critics have wasted their ingenuity in trying to defend the sanguinary ending of *King Lear*. In spite of the spiritual interest and importance of the murder which closes *Othello,* it is a fair question whether Shakespeare has not overreached himself in strangling Desdemona in public. In all such cases the mind is so shaken or distracted by the physical act as to be incapable of attending to its ethical import. The impression, so far from being enhanced, is blunted by the theatrical exaggeration.

On the other hand, such a poem as Goethe's *Iphigenie* goes to the opposite extreme. Admirable as it is in its own way, it is lacking both in dramatic action and in theatrical activity. It has nobility; but it is the nobility of reflection, not of passion. No wonder that Goethe himself could never see it performed with patience. And yet tragedy, while representing passion, does not represent it for its own sake. Tragedy implies an aim, an end or purpose to be accomplished—a labour, *πόνον*, an exertion. There is a fatal necessity constraining the *dramatis personae* to act and causing an interplay of motives, a fluctuation of emotion. To use the phraseology of the day, a play is not static but dynamic. It involves will, volition; it is not a mere state of feeling or even a succession of such states—but rather an agitation of spirit. Hence the necessity of a *metabasis,* as Aristotle calls it, or reverse of fortune. And it is just the point of drama that this revulsion of feeling should be capable of visible translation. Of all modern dramatists it is Shakespeare who combines most effectively this dramatic movement with theatrical activity. It is another and not the least of his many superiorities that he should so often succeed at once in setting up a genuine dramatic action in the souls of his people and in expressing so perfectly that inner revolution by an outward and physical animation. In Racine's tragedy, perfect in its kind as it is, there is always, it must be acknowledged, a disposition to repress the latter element in accordance with the proprie-

ties of society and to rely too exclusively upon recitation alone to carry the dramatic action. As a matter of fact Corneille's most admired effects are usually an affair of eloquence, even oratory.

In this respect too much altogether has been made of the so called statuesqueness and plasticity of Greek tragedy. As long as the performance was supposed to be confined to an impossibly high and shallow stage, along which the actors were silhouetted like the figures in a bas-relief, such a conception was perhaps unavoidable. But with the orchestra as the site of the action it is no longer necessary or plausible. That Greek acting had little of the minute realism which characterizes ours, is undoubtedly true. But that it was prevailingly declamation and recitation, that it wanted stage-effect, the text of *Electra* should be sufficient to disprove, to say nothing of Aristotle's commentary. Indeed, on the strength of the devices that I have been speaking of—peripeteia, agnition, and pathos—M. Lemaitre goes so far as to rebuke Aristotle for his sensationalism. Very well. But what does M. Lemaitre expect? What is tragedy if it is not sensational? And while Greek acting lacked realism, there must have been a breadth, a massiveness, a gravity about it more suitable to the desperate purposes of tragedy, for that dark and sinister background, than our painstaking pastiche of common reality, of the speaking voice and the daily face.

IV

From this sort of criticism there is danger of carrying away a false and one-sided idea of the subject. In the end Greek tragedy does leave an impression of dignity, repose, and serenity, more or less suggestive, perhaps, of the epithet statuesque. But the satisfaction resides, as I have already indicated, in its treatment, not in its subject matter. In the latter aspect it is, if anything, more terrible, monstrous, and revolting than our Elizabethan tragedy of blood. In the German *Sturm und Drang* itself there is nothing to exceed the story of the Atreides, upon which the *Oresteia* and the two *Electras* are based. The reproaches that Voltaire addressed to *Hamlet* might just as well have been addressed to the *Oedipus*. The mere repetition of

such names is enough to show how elemental is the substance of Greek tragedy and how helplessly its composure depends, not upon this crude and saguinary material, but upon the spirit with which it was animated and the ideas with which it was informed. As mere stuff its superiority over the *Nibelungen Lied* and *Beowulf* is not great. As drama its superiority consists in the profound moral significance with which the Greek had imbued it. And in this case the merit belongs to the race as well as the dramatist, for whose hand it was partly prepared before he touched it. It was the genius of the people which had fitted these sinister old legends for tragic treatment by deepening their content and suggestion. In themselves they are like windows opening upon a remote and savage antiquity, through which it is still possible to catch a glimpse of wild irrational powers moving obscurely in the gloom, of the fitful workings of casualty and chance—perfidies of nature and miscarriages of reason. Consider only the labyrinth of *Oedipus* or the ambages of *Ion*.

These were the subjects that gave the Greek his opportunity. He was grappling with tremendous problems, he was struggling for a foothold on the brink of unreason, he was confronting the irresponsible demonic forces of creation, he was wrestling for the secrets of destiny; and the groundwork of his tragedy was vast, portentous, and preternatural.

And yet out of all this confusion and anarchy there seemed to be something slowly shaping—an event, an issue, a fate—directing itself more or less vaguely, in the midst of uncertainty and dread, to some far off and indistinguishable end. Careless of guilt and innocence, heedlessness and premeditation, it spared one and spoiled another indifferently; it required the child of its parents and the mother of her son; it snared alike the crafty and the unawary, the pious and the scoffer. Unprognosticable, it did not want for records: whatever came to pass, bore witness to its passage; in particular, its trail lay over certain great houses and illustrious families. Capricious as its dealings with the individual might seem, it was impossible in the long run to deny them a kind of coherence or rough and ready logic. Was it possible to go still farther: in spite of misleading appearances and

occasional inconsistencies could they be reconciled on the whole with the ideal of an absolute and impartial justice?

Such was the problem which the dramatists inherited. In the case of Aeschylus, however, it is evident that this attempt at the moralization of fate has by no means met with perfect success. In what remains of the Promethean trilogy, which is with the *Oresteia* the most significant in this respect of all his extant work, the result looks very much like a compromise. The atmosphere of *Prometheus Bound* is, it must be confessed, a pretty uncertain medium for the conveyance of clear ideas. It is the day after the deluge, and the air is still thick and troubled. Even Aeschylus himself is shaken. It would be hard to say how much of the modern feeling of security is due to a belief in the uniformity of nature, how much to a faith in the beneficence of an overruling providence. The latter serves to guarantee the moral order in as far as it has not become a matter of total indifference to us, for we seem to have given up any very serious thought of the establishment of such an order in the world at large; while the former acts as warranty for the physical order, with whose ascendency we seem to have made up our minds to rest content. But however this may be and whatever their relative proportions, take away these two convictions and our world would fall to pieces. And yet Aeschylus had neither of them. He had no sense of the mechanical concatenation of nature and he had no surety for his gods. Divinity, as his religion and traditions represented it, might be poetic; it was anything but moral. In a word, it was a divinity quite in the present aesthetic taste—an artistic being without moral irrelevances, which would heartily have applauded the programme, *l'art pour l'art,* but would hardly have made a reliable guardian of manners. In default, then, of a deity to whom the regulation of such matters might safely be entrusted, Aeschylus could only fall back upon fate itself as above and beyond the gods—or else let the moral order go by the board, and with it the only law and security for existence of which he had any conception. But if Zeus' treatment of Prometheus was shocking, was it not equally shocking of fate to permit, to say nothing of ordaining, such an atrocity? What possible justice

was there in condemning Prometheus to torture for his benefits to humanity in defiance of a tyrant, usurper, and parricide, whose highest title to consideration would seem to consist in the fact that he was able to command the services of Kratos and Bia?

That this question, which is obviously the question raised by the drama, is answered in a thoroughly decisive and satisfactory manner, it would be idle to maintain in the face of all the conflicting interpretations of which the play has been the subject. At the same time I believe that even as far as it goes, the drama does answer the question partially, and answers it in accordance with the general principles of Attic tragedy. That Aeschylus sympathized with Prometheus, is pretty clear. No doubt the audience sympathized with him too. But notwithstanding the representations of modern criticism I venture to think that he was not to the Greek the purely sympathetic character which he has become for the modern. As far as bare intention goes, he was properly an object of pity in his distress, after the usual fashion of the tragedy in which he figured. At the same time his sacrilege, which has lost its sting for us, must have made him for the Greeks an object of horror equally. Either so; or the feelings by which Aristotle defines the impression of his tragedy, must be so indefinite and diffused as to make his statement altogether pointless—an *aperçu* rather than a definition. That Aeschylus makes no attempt to gloze his protagonist's fault, ought to be decisive. Unmistakably as he sympathizes with Prometheus, it is significant that he carefully refrains from justifying him. On the contrary he appears on one occasion at least to have put an admission of guilt into his mouth—ἥμαρτον, οὐκ ἀρνήσομαι. Nor does it matter particularly how ἥμαρτον be translated in this connection; to err or even mistake in these matters was for the Greek, as I have pointed out, none the less a sin. In so far, then, Aeschylus keeps the idea unobscured. Prometheus suffers; but then Prometheus has violated the law for Titan as for man, and to that extent his punishment is just.

And yet while this is true, it must be conceded in excuse of another range of interpretation that Aeschylus shows a little reluctance to *trancher* the question. It is as though the matter

were not quite clear in his own mind. While he refrains from justifying Prometheus, it is equally significant that he does not exert himself to justify Zeus either. Rather he represents him as himself obnoxious to justice—wherein, to be sure, he seems to have followed his traditions. For his own part, however, he is by no means sure that the law of Zeus is a moral law; while as for his act itself he evidently regards it as abhorrent in its extremity and depicts it as an act of violence—a παθος in the technically Aristotelian sense. Hence his reserves. He will not gainsay the offense, but his heart is divided. If both are liable—for does not fate impend upon Zeus also?—then he seems to feel as though the fault of the god excused or minimized that of the Titan. There is something wrong somewhere—with the institution of Zeus, perhaps. Of one thing alone he is perfectly certain—that order is better than chaos. The rule of Zeus may be arbitrary, it may rest on force; and yet it is a rule. It may not be thoroughly equitable as yet, as an institution it may need rectification; but it is better than confusion, it is the one means to security and stability. He who resists and defies it, is guilty of an attempt to subvert the provisional moral government in the interests of anarchy. There is no help for it: he is an agitator, a disturber of the peace; he must be quelled.

Prometheus, then, is the revolutionary. He is the first of mutineers, and to this fact he owes his fortune as the great romantic and humanitarian symbol. He belongs to the race of dissidents, nonconformists, insurgents, or whatever name they may be called, who revolt against a necessary discipline, traditional or established, in the name of a lawless and indeterminate ideal. No wonder that he received an apotheosis in the age which promoted revolution to the rank of a political institution. He is one of that dangerous class of reformers who refuse to proceed by due process of law, who are impatient of its restraints and delays and would suddenly take the execution of justice into their own hasty hands. Like them he obeys no higher principle than his own sympathies; he will justify the means by the end and shelter in the day of judgment under the fairness of his intentions. He is the classical embodiment of individual justice;

he does what seems good in his own eyes. That he would do right, is sentimentally a mitigating circumstance; his crime is that he would do right wilfully and after his own mind. That he happens to right a wrong, to anticipate a reform—that he is the noblest of rebels, makes the demoralization of his example no less—rather the greater. Nor does it affect the issue particularly that his rebellion is directed against a tentative and imperfect administration. What administration is otherwise?

The illustration may seem far fetched; but I never read the *Prometheus* that I am not reminded of a *pensée* of Pascal's.

> It is proper to observe right; it is necessary to observe might. Right without might is powerless; might without right is tyrannical. Right without might is disputed, because there are always the wicked; might without right is reviled. It is necessary, therefore, to unite right and might, and for that purpose to make right mighty or might right.
>
> But right is subject to dispute; might is easily recognizable and is indisputable. Hence it is impossible to annex might to right, because might has contradicted and asserted that she alone is right. And so, since it is impossible to make right mighty, we have made might right.

Not that this conception answers exactly to Aeschylus' whole thought. What Pascal regards as a permanent state of affairs, Aeschylus contemplates as a transient condition, a mere *Durchgangspunkt*. But Pascal's notion is true enough for the moment marked by the *Prometheus Bound*. In order that justice may be ultimately ensured, it is necessary first to found a power capable of maintaining some sort of order and discipline, from which by a process of gradual correction and improvement may be developed a more and more perfect justice, in which the rights of humanity itself shall receive their proper recognition. Such is apparently the condition on which Zeus is suffered to reign; he too must adjust himself to a higher principle than his own conveniency. For the correction and perfection, as for the maintenance, of that moral order to which the obedience of inferior beings is due, Zeus himself is answerable to the fate which palpably overhangs him throughout the tragedy. He must reconcile himself with Prometheus, he must find a *modus vivendi* with the champion of mankind, which has its rightful place also in the universal polity—before his sovereignty is confirmed. If the

conclusion of the trilogy were in evidence, it is probably with this accommodation that it would deal. The first necessity, however, is to create the idea of justice and to establish it. And if Zeus is justly on probation for his management, Prometheus is no less justly in duress for rebelling, in the hot-headed old Titanic fashion, against the sole authority by which this result may be accomplished and its fruits secured. Before the advent of justice the world must be broken of Titanism.

Such, it seems to me, is the sense of the drama; and the *Oresteia* tends, I think, to confirm this conclusion. The theme is the same in both instances. In the latter case, however, where we have the whole story, there is less danger of mistaking its purport. The only difficulty is that just as the modern reader's impression of the *Prometheus* is falsified by a failure to feel the horror of Prometheus' sacrilege, so here his judgment of the *Oresteia* is liable to be warped inversely by an inability to feel the pity of Orestes' murderous legacy. What requires emotional correction with respect to the tragic passions at present, is not the odium but the pathos of the action. There is nothing equivocal about Orestes' guilt: matricide is as abhorrent to-day as it ever was. But private vengeance is no longer recognized as a duty; there is nothing that is sacred, little that is sympathetic, about it. In the mind of the Greeks, however, who appreciated the obligation of the latter as fully as the abomination of the former, the situation inspired the usual tragic duplicity of feeling. They were of a temper to be touched by the dutifulness of Agamemnon's avenger and to be horrified at the impiety of Clytemnestra's executioner. Otherwise I am at a loss to account for my sentiments in reading the trilogy; for I must confess that my wishes are for the success of Orestes and his sister, much as I may reprobate the deed by which it is assured. Nor is this the sentiment of the situation as such; it is not in the *Electra* of Euripides. The Aeschylean Orestes, though a criminal in act, is no epileptic monster like the Euripidean: albeit he does not lend himself so readily to humanitarian attitudinizing, there is as much to be said for him as for Prometheus. And curiously enough it is Euripides who finally says it, though not much to his

advantage, in vilifying Apollo as the instigator of his crime. As for Aeschylus, however, he accuses Apollo no more than he does Zeus—for one thing which romantic criticism has overlooked is the fact that if Zeus is to blame for Prometheus' plight, Apollo is equally to blame for Orestes' and with less excuse because without provocation. At best the circumstances are different, the responsibility is the same. It is fair, therefore, to argue that Aeschylus' idea must have been alike in both cases. But if anything is clear, it is that the author of the *Oresteia* is no romanticist; he is not disintegrating the moral edifice but cementing it; he is not relaxing discipline but tightening it. It is not at Apollo's expense that he claims the audience's pity for Orestes, whose saving virtue, as compared with Prometheus, is his submission to authority. What is impossible and intolerable in his situation is the fault of an imperfect and makeshift institution, the *lex talionis,* whose whole enormity is finally demonstrated in the fatal dilemma of this last sad inheritor of a bloody old tradition. The impulsive movements of private retaliation must give way to the deliberate decisions of an impartial and dispassionate court. And though it would be an insult to justice, were the perpetrator of what is after all a monstrous crime, allowed to go scot free, yet it is only equity that he whose sufferings have been the occasion of reform, should benefit by the amendment to whose adoption he has at least contributed.

In these pieces at which I have glanced as those most critically interested in the method and conception of Attic tragedy, Aeschylus is concerned mainly for the reconciliation of might and right through the medium of divine legislation—what we should call nowadays in secular terms the evolution of justice. The subject corresponds with his place in the history of tragic ideas and responds to the conscious craving for a definite moral constitution. His problem is one of institutional morality—if such a phrase is permissible in such a connection; its solution is an affair of moral statesmanship and administration. Personally I do not believe that a more tremendous tragedy than *Agamemnon* has ever been written; I do not know of any tragic impression more awe-inspiring than that produced by Cassandra arrested by the

spirit of prophecy at the door of the Atreides' palace. For this reason I hesitate to call the problems of private morality deeper and necessarily more tragic, after the current manner of speaking. But at all events they are different; and it is these problems, raised by spontaneous impulses and by promptings of conscience hopelessly at odds with the determinations of life and society, which are Sophocles' peculiarly.

In *Prometheus* and the *Oresteia* the tragic schism is wholly external; it is due to a maladjustment which may be corrected without permanent harm to the persons involved. But every anomaly felt as tragic is not to be explained or reconciled so happily. There are instances in which it is inherent and fatal; in which it involves an organic lesion. It is so with Oedipus; not only is his crime his own but the responsibility is his also. Unlike the Aeschylean Orestes he acts by and for himself and at his own peril. To be sure, it may be said that like Prometheus he acts in behalf of others and in the interests of the general whether or not by prescription. But there is a difference. It is not without intention that Sophocles has centered the drama, not upon that portion of his protagonist's career which has been mazed and darkened by celestial counsels, but rather upon that portion in which he, the child of fate—παῖς τύχης, as he calls himself with cruelly unconscious irony—has the temerity to act by his own lights with infatuate confidence in the clarity of his own vision—he, the puppet of destiny, blindfold from birth, who has never taken a step with a full sense of the conditions and consequences of his action. It is this pretender to clairvoyance, this dabbler in enigmas, the reader of the riddling Sphinx, whom Sophocles represents as pretending lightheartedly to unravel the mystery of his own being. He is a great criminal, to be sure; but he has become so inadvertently and as a result of such a skein of fatality that it is doubtful whether his lot would not be wholly pitiful (as, indeed, many have found it, *le grand Corneille* among them, who have failed to attend strictly to the action) if it were not for the pertinacity with which he is seen to pursue destruction in insensate conceit of his own sufficiency. And to the same effect the length of time which is supposed to have elapsed since

his crimes—so long have they lain concealed that they would seemed entitled to a measure of immunity, as by a kind of unwritten statute of limitations, were it not for the fact that he himself is the one who finally unearths them. Had he been brought to account by another, it would have appeared little better than a divine inequity. I do not believe that any one can read the tragedy intelligently without being sensible of presumption, of gross moral impropriety in the bias whereby Oedipus is impelled to seek for himself the solution of his own problematic existence. It is no correction of institutions that will mend his case—nothing but a reformation of the entire character.

With all this I am puzzled to understand why the *Oedipus* has never received the same sort of philosophical rating as the *Prometheus*. Its significance is, if anything, more profound and is certainly much more general. It is the very type of life universal. While lending itself with equal readiness to "symbolic" interpretation, it has never been surpassed as a figure of human responsibility in particular. We are all of us without exception in Oedipus' case—rounded like him with ignorance and mystery, and yet obliged to act incessantly and at our own hazard, so that our every step seems a presumption deserving of disaster and our every judgment an arrogance inviting rebuke and humiliation. Of all Greek tragedy the *Oedipus Tyrannus* seems to me not only the most characteristic of the genius which produced it but also most applicable to our hapless human lot.

At the same time I must confess to a particular affection for the *Electra*. Perhaps it is the situations that especially please me—Orestes at the gate of the palace overhearing his sister's lamentation; Electra herself with the funeral urn in her hands; the recognition with its sudden revulsion of feeling. In the face of the impending abomination there is something singularly affecting in the attachment of these two ill-starred children of a murdered father—the dependence of the one, the assurance of the other. But however this may be, the important matter for the inherence of Sophoclean tragedy is the shift of the traditional center of interest from Orestes himself to his sister. However it may be with him, she at least is under no divine com-

pulsion. Her only abettor is her conscience. She acts of her own accord and by the exigency of her own nature.

But after all the clearest illustration of Sophocles' conception of the tragic as something intimate and essential is to be found in neither of these pieces but in the *Antigone*. Ethic I was about to call it. And for that matter what is the source of tragedy in the *Antigone* but the collision of an ethic with a moral principle—of the fatal propensities of character with the prescriptions of social or civil expediency or necessity? It is the usual Sophoclean theme, the theme of *Oedipus* and *Electra;* but it comes out here more distinctly than elsewhere on account of what appears to us the superior sanctity of the former, the individual principle—or rather, probably, on account of the comparative insignificance of the latter. And yet in view of the Greek's devotion to his city—a devotion for which, narrow, shortsighted, and suicidal though we esteem it, he showed himself willing again and again to sacrifice every advantage and undergo every hardship, I can not make so light of Antigone's contempt of what to her countrymen was patriotism as do many critics for whose opinions I usually feel the greatest deference. What else was her conduct in Greek eyes than treasonable? And little as we are at a point of view to appreciate this sentiment (though this is by no means the only instance on record of sectional or parochial animosity or of the obliquy incurred by non-adherents of local or party politics) I still believe that Antigone's disloyalty to the polity—or what was bound to seem such in the heat of a great public excitement—must have been a scandal to a Greek audience, which was, on the other hand, in no less favourable disposition of spirit, in comparison with us, to sympathize with her religious scruples as distinct from the purely personal pathos of her condition and being. And so it is, I believe, that Sophocles intended her to appear—like other tragic protagonists, as an object of horror no less than of pity; otherwise there would be something gratuitous in the extraordinary severity which characterizes his chief magistrate, by her attitude to whom, as the representative of the government, Antigone's faithlessness to the commonwealth is dramatically measured. To be sure,

such asperity is natural enough to a person or a people in the reaction succeeding immediately upon a tremendous crisis. But if that were all, if the point were merely psychological, Sophocles would hardly have been so careful to restore the equilibrium by meting out a final judgment to Creon for exceeding the just measure. There is no doubt, it seems to me, about his intention; he will not countenance contempt of the supreme impersonal law on the part of an individual whatever his or her title on other grounds to admiration or respect; for "value dwells not in particular will."

But at the same time, while *Antigone* fits the framework of its *genre* and is no exception to the general definition of Greek tragedy, I am well aware that for us to-day, whose ideas of religious and civic duty are so different, such an interpretation must seem far fetched and forced. Indeed, there is no tragedy, I fancy, even of the Greeks, with respect to whose moral bases we are at such a disadvantage. The burial motive is as remote from our instinct as the cult of the city; we are as unfitted to respond to the one as to the other. It is the person of the heroine almost exclusively that appeals to us. Elementally she is not the representative of any special duty or set of duties—though if she were not sustained by a sense of duty, she would not be the noble and touching figure she is. For our emotions it is not the mere political and social crux which makes the play—this is but the vehicle; it is the case of conscience. What renders the tragedy peculiarly affecting among the tragedies of Sophocles, what gives it its specific favour is not merely the bare dilemma—the consciousness of rectitude which can neither surrender its convictions without shame nor persist in them without ruin, but the nature of the protagonist—her sex and youth, her ill-omened birth and her attachment to the son of her executioner. No wonder that she has become for the modern one of the great sympathetic characters of literature, like Cordelia, and her tragedy a sentimental one.

On the other hand, while Sophocles holds the scales even—while he gives the ethical and the moral elements alike their due—to the heroine's womanliness its meed of compassionate admi-

ration as to the tyrant's arrogance its fitting correction, at the same time that he asserts the existence of a higher authority than the judgment of particulars—yet for all this, which escapes us more or less but was clear enough to the Greeks, I would not assert that he himself had in mind any such fleshless formula as that which I have applied to his work. All I mean, is that he conceived in a certain way and to a certain effect, which I have tried to analyze—roughly and bunglingly enough, I dare say. No doubt he worked by touch, not by measure. He was not likely to stop to anatomize an effective subject if it yielded the proper emotions on inspection. But that in spite of the modern perplexity of its theme and the spontaneity of its creation the *Antigone* does take down regularly, I have tried to show. Generically and schematically it is, like the other works of its author, the tragedy of the individual will.

In general terms, it is from the same source, the conflict of the ethic with the moral, that Euripides derives his drama. But unlike his predecessors he fails to sustain the supremacy or even the importance of the latter principle, and failing to do so, misses the distinctive double note of Greek tragedy. His favourite procedure is to represent morality as a hollow convention or tradition with little or no title to reverence or credit. As a result his characters are either interesting sinners like Medea and Phaedra or superstitious bigots and credulous gulls like Orestes and Menelaus. They are seldom or never actuated by conscience or conviction, a sense of duty or obligation, but impulse or appetite, desire or caprice. Like Racine's heroes and heroines, they are creatures of passion, not of resolution—they suffer their destiny rather than incur it. Of the same order too are the motives of his divinities like the Aphrodite in *Hippolytus* or the Apollo in *Ion*. As his tragedy is destitute of a principle of any kind, it has no minatory or exemplary force to speak of. If it is moral at all, it is so, not in the Aeschylean or Sophoclean, but in the modern, the humanitarian, manner. In this one sense, since his drama—with the exception of a few artless and appealing but hardly tragic figures, like Iphigenia, who are usually the dupes or victims of the plausible and unscrupulous knaves about them—

since his drama is a marvellous illustration of the vices, frailties, and weaknesses, the "humanity" of mortals, its author is not undeserving of the epithet with which he has been graced by a late romantic admirer, "Euripides the human"—an attribution with whose sentiment a majority of Athenian critics would probably have concurred.

In these respects Euripides is not very unlike Ibsen. Like the latter he too is unmistakably decadent and obsessed by the nightmare of ugliness. It is not so much, perhaps, that he dotes upon the sordid, the base, and the malodorous—though at times he displays no little complacency in their depiction—as that they haunt and fascinate him; they block up his view till he can see little or nothing else. As far as he is concerned, the heroic has ceased to exist; Helen is a baggage, Agamemnon a politician, Menelaus a cuckold, Ulysses a trickster, Orestes an epileptic. For the tragic emotion of horror he substitutes disgust; for the moral qualm of his predecessors a shrinking of the flesh, a sense of physical repugnance and nausea. His most distinctive dramatic effect results from a certain uncanniness of character and motive. He is temperamentally ambiguous, equivocal, evasive, shifty. He is prone to blink the issue, to refuse to look the tragic fact square in the face. His instinct is to deny it, if possible, to juggle it away by some trick of theatrical legerdemain; at all events to deprive it of moral relevence and competency.

It is evident, for instance, that he can see no sense, no reason of any kind in the sacrifice of Iphigenia. It is merely odious to him as it was to Racine centuries later. And yet what becomes of the tragedy without it? There is no apparent violation of justice, nothing to raise a doubt or suggest a suspicion; there is no qualm, no agony of question, no mystery at once terrible and revelatory. It is all perfectly simple, open, and morally intelligible. The interest centers exclusively upon the *dramatis personae* and their conflicting emotions. It is distinctively a modern, a psychological play. As contrasted with the Aeschylean and Sophoclean tragedy of principle, it is concerned solely with character and its expression.

In the *Electra,* on the other hand, the absence of a clear

moral issue has resulted in what is mainly a drama of incident. Orestes is nothing more or less than a monster for his pains, Apollo a scoundrel for instigating him to an unnatural murder; that is all there is to it. Aside from the morbid psychology incidental to the situation attention has nothing to perch upon except the stratagem and imposture by which Aegisthus and Clytemnestra are disposed of. The tragic problem has vanished completely; there is nothing left but a particularly harrowing and truculent melodrama.

As a result of his inability to make anything out of his fables and his impatience with the interpretations of others Euripides is reduced, in the article of theme, to the secondary *rôle* of critic. This is his fundamental weakness as a playwright. It shows itself in the loose construction, the faulty economy, the feeble effect of his individual dramas taken each as a whole, to say nothing of his faultfinding digressions on the management of his predecessors. In particular, since he sees no sense in his action as such and has no inkling of its final cause or rationale, it is only with the greatest difficulty that he can bring a play to a close at all—only by some conventional or arbitrary expedient, a dramatic *cliché* or theatrical miracle. As a matter of fact, his pieces seldom conclude; they terminate. Hence his abuse of the *deus ex machina,* which in contradicting or interrupting the logic of events, is to all intents and purposes a nullity, as in *Iphigenia at Aulis,* or else is effective only in dispelling the illusion, as in *Orestes.*

The effect of all this activity was inevitably to discredit and invalidate the value of the symbols with which Euripides himself was obliged to work. In transforming in this way the old mythology into a new psychology his treatment of his matter resulted in dissolving its moral ideas and in emptying it of its moral content. But inasmuch as he had nothing else to build upon, he virtually knocked the ground from under his own feet and was obliged to search his materials for other means of defraying the expenses of a public performance. It is for this reason that in turning his attention from the sense of the transaction as a whole, he comes to make so much of its constituent moments.

Unable to comprehend the ebb and flow of the tides, he can only admire the ebulliency and agitation of their surface. In this manner he becomes the dramatist of passion. This is his merit and distinction. For this kind of thing he was eminently fitted. Before he created them, such figures as Phaedra and Medea had never been dreamed of; and in some respects they have never been surpassed from that day to this. And yet this limitation—for limitation it is to see nothing but the passions to which an action gives rise and to miss its moral import as a whole—results in laying the principal dramatic stress upon sentiment; it makes the pathetic the sole effect of tragedy.

It is in this respect, then, that Euripides, the most imitated as the most consonant of classic dramatists with later tastes, serves as a kind of transition between the serious drama of ancient and modern times. In his case interest had already begun to shift from moral to psychological problems, from the quality of actions to the characters of men and the activities of nature. It is as though he had undertaken to forecast the terminals toward which the modern drama would move in its evolution, even to the amorphous and indiscriminate *drame* into which tragedy proper has finally degenerated, not to speak of the Shakespearean tragedy of character which he may have influenced in a measure through Seneca and the Racinean tragedy of passion of which he was obviously the direct and immediate inspiration.

II.—ON THE APPLICATION OF THE PRINCIPLES OF GREEK LYRIC TRAGEDY IN THE CLASSICAL DRAMAS OF SWINBURNE

BY OLIVIA POUND

The *Atalanta in Calydon* and the *Erechtheus* of Algernon Charles Swinburne represent signally successful attempts to reproduce Greek lyric tragedy.[1] The two plays follow the rigid type of the classical drama, and to many have seemed more like inspired translations than imitations; although it is in structure or form, rather than in their spirit or the view of the world which they present, that their antique inspiration reveals itself. Swinburne was so steeped in classical learning that he seemed to be able to place himself back in the time of the Greek dramatists and to express his ideas in their way. The ideas themselves are often modern; but in giving to his theme dramatic form he experienced again, as it were, the sensations of the classic poet. When all is said, he is much more than a mere imitator. Save for the romantic and lavish character of his expression and for his occasional sophisticated modernism of mood, he may well seem the reincarnation of some ancient Greek.

It has seemed of interest and value to try to apply to the two

[1] *Atalanta in Calydon* (1864). *Erechtheus* (1876). The citations in this paper are from the collected edition of 1904, Vol. IV.

For critical discussion of Swinburne's work, see especially T. Wratislaw, *Swinburne* (English Writers of Today series, 1900); G. E. Woodberry, *Swinburne* (1905); Edward Thomas, *A. C. Swinburne: A Critical Study* (1912); also W. R. Nicoll, "Algernon Charles Swinburne" in *The Contemporary Review,* May, 1909; J. R. Lowell, "Swinburne's Tragedies," in *My Study Windows;* W. Francke, *A. C. Swinburne als Dramatiker* (1900), and others. For the most part these discussions give incidental treatment of Swinburne's individual plays, and are written wholly from the aesthetic point of view.

The citations from the Greek dramas of Sophocles, Euripides, and Aeschylus are from the Teubner (Leipsic) texts of these dramas.

classical dramas of Swinburne the principles of Greek lyric tragedy, to discover how far he conformed to them. The topics to be dealt with in examining his plays are, in order, the chorus, the characters, the dramatic motives, the observance of the unities, and the handling of the plot. The aim is not to give literary appreciation of Swinburne's dramas, but to present a study of them from a specific point of view.

In both Swinburne's classical plays the chorus is an important factor. In *Erechtheus,* Swinburne achieved more nearly the perfect type of Greek tragedy than in the earlier play. The chorus of this play is composed of Athenian elders. They are the "ideal spectators" of Greek drama. These elders are in complete sympathy with the distracted king, and become his confidants. They approve what is well said, give advice when it seems needed, and, in general, reflect the feelings of the leading characters of the play. The Chorus in *Atalanta in Calydon* serves much the same purpose. It is composed of maidens who are on their way to make an offering to Artemis. They serve as the confidants of Queen Althaea. Though they cannot approve of many of her passionate outbursts, they pity her and seek to console her.

The first choral ode of *Erechtheus* is narrative.[2] It tells how the Thracian forces, urged on by Poseidon, have risen against Athens. The oracle at Delphi has been consulted, and the Athenians are fearful of its answer. Already two daughters of Erechtheus have been carried away by the gods. Enough sorrow has come upon the house and upon the city of Athens,

> The fruitful immortal anointed adored
> Dear city of men without master or lord
> Fair fortress and fortress of sons born free.[3]

After the Queen Praxithea has told the chorus that she must sacrifice one of her remaining daughters to appease Poseidon, the chorus sings how the first sorrows[4] of Erechtheus came from

[2] Cf. Sophocles, *Oedipus the King,* ll. 151–215.

[3] *Erechtheus,* p. 345.

[4] Cf. Aeschylus, *Agamemnon,* ll. 351–502.

the north, when the north wind stole away his daughter Oreithia. Now another child must be given to appease the sea.

The next ode is a lament for Erechtheus' daughter, Chthonia, whose sacrifice[5] is imagined in this ode. Its burden is grief and death.

When Chthonia says farewell and goes forth to die, the chorus extols the maiden's great love for her country. This leads to a hymn to mother earth, for whose sake Chthonia is to die. The last choral ode of this play follows the report that Chthonia's sisters in remorse have slain themselves. This song is full of fear, foreboding, and horror of war.[6] At last the chorus appeals to the sun. His light appearing through the clouds gives them hope.

In *Atalanta in Calydon,* the themes of the chorus are not related so closely to the plot of the play, but are suggested by the situations. The first song, a hymn to Artemis, is on "The Youth of the Year." This is one of the most beautiful passages in the drama and is a part most commonly quoted.[7]

> When the hounds of spring are on winter's traces,
> The mother of months in meadow or plain
> Fills the shadows and windy places
> With lisp of leaves and ripple of rain;
> And the brown bright nightingale amorous
> Is half assuaged for Itylus,
> For the foreign ships and foreign faces,
> The tongueless vigil, and all the pain.[8]

Another chorus[9] is on "The Life of Man." This was a theme[10] familiar to the Greek tragedians, as is also that of the next chorus,[11] "Love and Love's Mates."[12] "The Injustice of the

[5] Cf. *ibid.,* ll. 40–263.
[6] Cf. *ibid., Seven against Thebes,* ll. 286–396.
[7] *Atalanta in Calydon,* p. 249.
[8] Cf. Euripides, *Medea,* ll. 824–842.
[9] *Atalanta in Calydon,* p. 258.
[10] Cf. Sophocles, *Antigone,* ll. 335–388.
[11] *Atalanta in Calydon,* p. 273.
[12] Cf. Sophocles, *Antigone,* ll. 781–788.

Gods,"[13] the theme of another ode, is not unfamiliar to the classic poets. But the words that are put in the mouths of the maidens of the chorus are altogether too sophisticated. This is one of the few places where the thought of the play is out of harmony with Greek ideas. The theme of this chorus will be discussed farther on in connection with dramatic motives.

The chorus on "nature"[14] is almost as beautiful as that on "The Youth of the Year" and might be compared with the chorus on nature in *Iphigenia among the Tauri* l. 1089. This chorus is like one of the joyous dance songs[15] frequently used by Greek dramatists to emphasize a situation by way of contrast, when an unusually tragic scene is to follow. The hopes of the reader are raised by the exultant note of the chorus, only to be changed to despair when the messenger enters and announces that Meleager has slain Toxeus and Plexippus in a quarrel over the spoil. Much the same effect is produced by the contrast between the chorus, "The Youth of the Year," and the ominous words of the queen that follow.[16] The last chorus "Fate"[17] has somewhat the same theme as that on the "Injustice of the Gods"; but it contains no ideas that would have been unfamiliar to a Greek audience.[18]

The choral odes, though not so closely connected with the plot of the play, as are most of the choruses of Aeschylus and Sophocles, are not so irrelevant to the action as are some of the choral odes of Euripides. In some respects, however, the choruses bear a greater resemblance to those of Euripides than to those of the other Greek dramatists. Swinburne, like Euripides, is apt to subordinate thought to emotion. Each poet had the power of producing a wealth of radiant imagery. In the plays of both a certain feeling of excitement is stimulated, which in the case of Swinburne often seems abnormal. Both poets were likely to be carried away from their main theme by the opportunity for

[13] *Atalanta in Calydon,* p. 284.
[14] *Ibid.,* p. 296.
[15] Cf. Sophocles, *Antigone,* ll. 100–162; *Oedipus the King,* ll. 151–215.
[16] *Atalanta in Calydon,* pp. 249–251.
[17] *Ibid.,* p. 312.
[18] Cf. Sophocles, *Antigone,* ll. 901–908.

poetic flights afforded by the choral odes. Even the chorus on "The Injustice of the Gods" has, in a way, an Euripidean flavor. Some of Euripides' characters,[19] if not his choruses, are made to criticize the gods. But in none of the passages of Euripides that brought on him the charge of disbelief in the gods did he go as far, in his hostility to deity, as Swinburne's chorus of Calydonian maidens when they sing:[20]

> None hath beheld him, none
> Seen above the other gods and shapes of things,
> Swift without feet and flying without wings,
> Intolerable, not clad with death or life,
> Insatiable, not known of night or day,
> The lord of love and loathing and of strife
> Who gives a star and takes a sun away.
>
> Who shakes the heaven as ashes in his hand;
> Who seeing the light and shadow of the same
> Bids day waste night as fire devours a brand,
> Smites without sword, and scourges without rod;
> The supreme evil, God.

It is in these choral passages that Swinburne's genius is best revealed.[21] He delighted in experimenting[22] with various forms of verse, and the possibilities of the chorus gave him ample opportunity. It sometimes seems as if in these poetic flights he lost sight of the main object of his drama. On the whole, however, Swinburne's choruses fulfill the requirements stated by Horace:[23]

> The chorus, like the other personages, should take a vigorous part in the action and must never in the songs between the scenes introduce anything irrelevant and unsuitable to the purpose of the drama. They should support the better side with friendly advice, should direct indignation and be ready to console grief.

[19] Cf. *Hercules,* 1316, 342, 1341.

[20] *Atalanta in Calydon,* p. 287.

[21] Discussion of the metrical structure of the odes is omitted. The topic is too intricate to be included within the limits of this paper.

[22] See the letter from Swinburne to Stedman, *The Dial,* 1909, vol. 47, pp. 5–7.

[23] *Epistles,* II, 3, 193.

The chorus is not used merely to heighten the tragedy by songs on some theme suggested by the situation. As in the classic dramas, the chorus takes an active part in the development of the plot. In *Erechtheus* it is to the chorus that the herald of Eumolpus gives the summons to the last struggle between the Athenians and the Thracians. With this messenger the chorus engages in stichomythic matching of wits. In transitional passages in both plays two-line speeches of the chorus are used.[24] In Greek tragedy two-line speeches were especially common in quarrel scenes. When Chthonia passes from the palace to the sacrifice the chorus shares with the queen, Praxithea, in her farewell. In *Atalanta in Calydon* the queen, Althaea, tells the chorus of her frightful dreams,[25] and of her foreboding. They sympathize[26] with her when she struggles against the curse of the gods. In the scene[27] of the Death of Meleager they have as important a part as any of the characters. Alternating with Atalanta, the king, Oeneus, and the dying Meleager, they raise the lyric lament,[28] while the hero wastes away, as the fatal brand burns on the pyre of Althaea's brothers.

Distinctive, like the use of the chorus, of Greek dramatic construction is the limitation of the number of characters who may appear on the stage at one time: this where our native dramatic principles allow utter freedom. In the *Erechtheus* the number of characters appearing on the stage at one time conforms strictly to the rule of the Greek drama. There are seven characters in this play, and in no instance are more than two present and taking part in the action with the chorus. In *Atalanta in Calydon,* the earlier of the two plays, Swinburne does not conform so closely to the rule that not more than three speaking personages should be on the stage together at any time. In the scene of the quarrel between Meleager and the brothers Toxeus and Plexippus, there

[24] *Atalanta in Calydon,* p. 268; *Erechtheus,* p. 353.
[25] *Atalanta in Calydon,* pp. 251–258.
[26] *Ibid.,* pp. 307–317.
[27] *Ibid.,* pp. 322–329.
[28] Cf. Greek *commos.* Sophocles, *Electra,* ll. 121–254, Aeschylus, *Seven Against Thebes,* ll. 677–711, Swinburne, *Erechtheus,* pp. 374–376.

are six speaking characters present. This, however, is one of the few instances where either play varies from Greek tragedy in principles of construction.

It might be expected that a nineteenth century dramatic poet would surely present characters that were individual rather than representative of some type. But Swinburne's characters seem to have no more individuality than most of those in Greek tragedies, and probably not so much as some characters in the plays of Euripides. Erechtheus is the type of the loyal, devoted king, ready to make any sacrifice for his kingdom. He is noble, proud of his people and of his city. His destiny seems the more tragic, because he has been as faithful to the gods as to his country. Though fate is manifestly unjust to him, he does not complain, but sturdily yields to his sense of duty. He embodies the Greek ideal of moderation in all things. He and his queen, Praxithea, are both

> of mood
> Equal, in good time reverent of time bad,
> And glad in ill days of the good that were.[29]

Nor is his submission weak-spirited. When he goes forth to die his words are as heroic as a king's should be:

> And with such mortal hopes as knows not fear
> I go this high last way to the end of all.[30]

Chthonia, Erechtheus' daughter, is a character unusually lovable; but she, too, seems to represent a type rather than an individual. She is as courageous as her father, as proud of Athens, and as ready to die, if she may save her city. This heroism is softened by her tender love for her mother.[31] She seems an engaging child like Iphigenia, rather than a self sacrificing heroine like Antigone.

In *Atalanta in Calydon* the characters stand out more clearly, but still represent types, with the possible exception of Althaea. Atalanta is a human Artemis, a strong character,

[29] *Erechtheus,* p. 349.
[30] *Ibid.,* p. 369.
[31] *Ibid.,* p. 376.

> Most fair and fearful, feminine, a god
> Faultless.[32]

Meleager typifies the headstrong warrior, brave, glorious in his youth, and impetuously rushing to his fate. Althaea's brothers, Toxeus and Plexippus, are arrogant, overbearing, and jealous. By their own rashness they bring the anger of Meleager upon them.

Althea is the strongest of the characters in these two dramas. Though she has many human traits, she seems to personify the fate that demands revenge for the slaying of kin. From her first words it is seen that she forebodes the outcome of the hunt that has been arranged to free Calydon of the wild boar sent by Artemis. She meets the chorus of maidens who are on their way to make an offering to the goddess of the hunt. They have just completed their hymn to Artemis, when Althaea throws gloom over their rising hopes.[33]

> Night, a black hound, follows the white faun day,
> Swifter than dreams the white flown feet of sleep;
> Will ye pray back night with any prayers?
> And though the spring put back a little while
> Winter, and snows that plague all men for sin,
> And the iron time of cursing, yet I know
> Spring shall be ruined with the rain, and storm
> Eat up like fire the ashen autumn days.[34]

In a long monologue she tells the chorus of the coming of the fates when her son Meleager was born, how they had told her that he should live no longer when the brand then in the fire should be burned. So she drew forth the brand and kept it. There are many human touches in this narrative. When she describes the strange dreams the gods have sent her she says:

> seeing I see not, hear
> And hearing am not holpen, but mine eyes
> Stain many tender broideries in the bed

[32] *Atalanta in Calydon,* p. 269.
[33] *Atalanta in Calydon,* p. 251.
[34] *Ibid.,* p. 255.

Drawn up about my face that I may weep
And the king wake not; and my brows and lips
Tremble and sob in sleeping like swift flames
That tremble, or water when it sobs with heat
Kindled from under.[35]

Other human touches are given when she tells how she bent over the child when the Fates had told her how she might save him:

Wherefore I kissed and hid with my hands,
And covered under arms and hair, and wept,
And feared to touch him with my tears, and laughed;[36]

So she had kept the brand for years, and Meleager had grown to manhood. But the gods have sent her new dreams, and she can not tell whither the fates draw her.[37]

After an ode by the chorus, Meleager enters and stands by his mother viewing the forces that are gathering for the hunt. In perfect sympathy they watch the moving band, commenting on this hero and that. When Althaea's brothers appear Meleager says:[38]

Next by the left unsandalled foot know thou
The sail and oar of the Aetolian land,
Thy brethren, Toxeus and the violent-souled
Plexippus, over-swift with hand and tongue;
For hands are fruitful, but the ignorant mouth
Blows and corrupts their work with barren-breath.

This leads to controversy that is carried on in stichomythia. In genuine Greek fashion Swinburne makes use of the parallel dialogue, suggestive of debate, that so delighted the forensic-loving Athenians. Althaea warns Meleager that whoever follows the ways fixed by the gods prospers, but the fates pursue the

[35] Cf. Greek *rheses,* set rhetorical speeches. There are seven of these in *Atalanta* and three in *Erechtheus,* averaging one hundred lines each. Compare Sophocles, *Ajax,* ll. 815–865, Euripides, *Daughters of Troy,* ll. 1156–1206.

[36] *Atalanta in Calydon,* p. 256.

[37] *Ibid.,* p. 257.

[38] *Ibid.,* p. 263.

one that is perverse. She has realized that Meleager is yielding to love for Atalanta, who has turned against custom and devoted her life to Artemis.

> A woman armed makes war upon herself,
> Unwomanlike, and treads down use and wont
> And the sweet common honor that she hath,[39]

Meleager though moved by his mother's words persists in his worship of Atalanta. Then Althaea gives a final warning. In this she manifests the spirit of the relentless vengeance that she later seems to personify.[40]

> Live if thou wilt, and if thou wilt not, look,
> The gods have given thee life to lose or keep,
> Thou shalt not die as men die, but thine end
> Fallen upon thee shall break me unaware.

Later in the play, when the messenger brings the news that Meleager has slain Plexippus and Toxeus, Althaea utters a lament that shows wonderful love and sisterly gratitude.[41] She is torn between love for her son and for her brothers.[42] At last the spirit of her mother seems to drive her to blood atonement. She becomes, as it were, the avenging spirit of her house.[43]

> Fate's are we,
> Yet fate is ours a breathing-space; yea, mine,
> Fate is made mine forever; . . . you strong gods,
> Give place unto me; I am as any of you,
> To give life and to take life.

The stock character, the messenger, is used by Swinburne, as by the Greek tragedians, to describe some situation or action occurring outside the "unity" of place. None of his messengers have any individuality. They are "idealized" messengers, and

[39] *Ibid.*, p. 265.
[40] *Ibid.*, p. 272.
[41] *Atalanta in Calydon*, p. 308.
[42] *Ibid.*, p. 309.
[43] *Ibid.*, p. 314.

give utterance to some of the most brilliant descriptions in the two plays. The display of oratory in these vivid narrations of the messenger is strikingly Euripidean. The importance of the messengers in developing the plot will be considered later.

The main dramatic motive of *Atalanta in Calydon* is the inexorableness of destiny, a theme used so often by the Greek dramatists. When Meleager was born the fates had decreed that he should live no longer than the brand on the hearth should burn. This was the will of destiny. The end might be postponed but was inevitable. Meleager's mother becomes the unwilling agent of the fates. It is hinted that fate in his case is retribution, because Meleager persisted in his love for Atalanta, "a maid hallowed, and huntress holy, as whom she served."[44] The chorus says of her:[45]

> She is holier than all holy days or things,
> The sprinkled water of fume of perfect fire;
> Chaste, dedicated to pure prayers, and filled
> With higher thoughts than heaven; and man
> She loves not; what should one such do with love?

This justification of fate, however, is unconvincing. Fate seems rather an arbitrary power, working blindly and capriciously. Mankind seems to be in the grasp of a relentless force. Destiny appears as "Irony of Fate," in the words of Professor Moulton,[46] "a march of Destiny, relentless and mocking, through means and hindrances alike, never so sure as when it is opposed, using the very obstacles in its path as stepping-stones by which it travels forward." It is this "Irony of Fate" that makes Althaea, who has kept her son alive so long and whose love is unmistakable, in the end become the instrument of fate in causing Meleager's death. She feels the force of fate, but is powerless to resist. She says[47] "the gods are many about me; I am one." Though she cries out against fate, she finally yields and,

[44] Cf. Euripides, *Electra,* ll. 774–889.
[45] *Atalanta in Calydon,* p. 255.
[46] *Ancient Classical Drama,* p. 96.
[47] *Atalanta in Calydon,* p. 301.

as said before, seems to personify the powers that are working through her.

In *Erechtheus* fate seems even more unreasonable than in *Atalanta in Calydon*. Erechtheus in no way had been responsible for the choice that gave Athens to Athena, rather than to Poseidon; but he becomes the victim of the jealousy of the defeated god. In his case fate takes the form of the implacable anger of a god. Erechtheus is just, pious, humble before the gods. No overweening pride of his, or of his house, has brought this fate upon him. He accepts the will of the gods as inevitable, and yields unquestioningly. Submission with him is part of duty.[48]

> The gods have set his lips on fire withal
> Who threatens now in all their names to bring
> Ruin, but none of these, thou knowest, have I
> Chid with my tongue or cursed at heart for grief,
> Knowing how the soul runs reinless on sheer death
> Whose grief or joy takes part against the Gods.
> And what they will is more than our desire
> For no man's will and no desire of man's
> Shall stand as doth a God's will.

Swinburne's idea of destiny, it will be seen, is more nearly that of Euripides. Destiny is not the mysterious and awful law that it is represented to be in so many of the plays of Aeschylus. Nor is it represented as the working out of moral forces, as in the plays of Sophocles. It is that cruel, pitiless fate that makes man rebel against its senselessness. So Althaea shows her bitterness toward the goddess who is the means of working out Meleager's fate.[49]

> First Artemis for all this harried land
> I praise not, and for wasting of the boar
> That mars with tooth and tusk and fiery feet
> Green pasturage and the grace of standing corn
> And meadow and marsh with springs and unblown leaves,
> Flocks and swift herds and all that bite sweet grass,
> I praise her not; what things are these to praise?

[48] *Erechtheus*, p. 343.

[49] *Atalanta in Calydon*, p. 253.

Even the chorus, the usual representatives of convention and submission to the will of the gods, devote a whole ode to their injustice.[50]

> For the gods very subtly fashion
> Madness with sadness upon earth;
> Not knowing in any wise compassion,
> Nor holding pity any worth;
> And many things they have given and taken,
> And wrought and ruined many things;
> The firm land they have loosed and shaken,
> And sealed the sea with all her springs;
> They have wearied time with heavy burdens
> And vexed the lips of life with breath;

This feeling of hostility to deity found in many passages of *Atalanta* is prevalent in much of Swinburne's poetry. It was a note sounded often by Shelley, Byron and other early nineteenth century revolutionary spirits. Swinburne, however, seems to have derived this feeling also from his study of Greek. To him all gods seemed to be Olympian. As Mr. Woodberry says:[51]

> The classical immersion of his mind had made clean work of all Christian symbolism; it had swept it away, and in its place came, for imaginative purposes, the Greek forms of old divinity and myth, but less as idols of hope than idols of memory.

So this feeling of hostility to deity seems not out of place in these classical dramas. As mentioned in discussing the chorus, "The Injustice of the Gods," there are passages in some of the plays of Euripides that show the same spirit. In both poets the main criticism of deity is that man is piteous, while deity is pitiless.

In *Erechtheus* the prominent dramatic motive is submission to deity. This is the motive of all the leading characters of the play. The king, submissive to the will of the gods, is ready at any sacrifice to do his duty to his city and his countrymen.[52]

[50] *Ibid.*, p. 285.

[51] *Swinburne*, p. 43.

[52] *Erechtheus*, p. 343. Cf. Sophocles, *Antigone*, ll. 450–470.

> Fare we so short-lived howso'er, and pay
> What price we may to ransom thee thy town,
> Not me my life; but thou that diest not, thou,
> Though all our house die for this people's sake
> Keep thou for ours thy crown our city, guard
> And give it life the lovelier that we died.

The same note is sounded by Praxithea. For her too the will of the gods is all powerful. Without hesitation she submits to the sacrifice of her child for the sake of her country.[53]

In this motive of duty to the gods and to one's country is involved the idea of self-sacrifice. This is the leading motive in the part of Chthonia. She not only is devoted to the gods and to her country, but takes pride in becoming the victim that shall be the means of saving her people.[54]

> Countrymen
> With more good will and height of happier heart
> I give me to you than my mother bare,
> And go more gladly this great way to death
> Than young men bound to battle.

Another dramatic motive that adds to the tragedy of the plot of *Erechtheus* is 'love of freedom.' This is, of course, one of the motives that inspires patriotism. It is as much love of freedom as love of country that moves Erechtheus. Hence it is perpetual liberty that is given by Athena as the greatest reward[55] for his sacrifice. Love of freedom is another theme common to post-French revolutionary writers. Many of Swinburne's poems were inspired by this sentiment. Tyranny in any form called forth from him as from Byron or Shelley or Landor the strongest invectives, and patriotism the highest praise. This note, however, is not out of place in Swinburne's dramas, for love of liberty is a note found in Greek plays.[56] Moreover it is from Athens that Swinburne received much of his inspiration on this subject.

---

[53] *Ibid.*, pp. 357–361.

[54] *Ibid.*, p. 389. Cf. Euripides, *Iphigenia at Aulis*, ll. 1374–1401.

[55] *Erechtheus*, p. 411.

[56] Euripides, *Iphigenia at Aulis*, ll. 1374–1401.

The worship of the brightness of youth was another well-known Greek characteristic. This is found to a remarkable degree in these plays of Swinburne, and deepens the tragedy. "The Youth of the Year" is the theme of one of the most beautiful choruses in *Atalanta.* The spirit of youth and brightness animates this chorus and also that on "nature." This spirit of youth and brightness is heightened by Swinburne's elemental appreciation. His writings abound with references to fire, light, wind, and water, giving an iridescent effect that is sometimes dazzling. A good example of this power of radiant description is seen in the prayer to the sun.[57]

> Rise up, shine, stretch thine hand out, with thy bow
> Touch the most dimmest height of trembling heaven,
> And burn and break the dark about thy ways,
> Shot through with arrows; let thine hair
> Lighten as flame above that flameless shell
> Which was the moon, and thine eyes fill the world
> And thy lips kindle with swift beams; let earth
> Laugh, and the long sea fiery from thy feet
> Through all the roar and ripple of streaming springs
> And foam in reddening flakes and flying flowers
> Shaken from hands and blown from lips of nymphs
> Whose hair or breast divides the wandering wave
> With close tresses cleaving lock to lock,
> All gold, or shuddering and unfurrowed snow;
> And all the winds about thee with their wings,
> And fountain-heads of all the watered world;

It is because of this radiance of youth that the sacrifice of Chthonia and the undeserved death of Meleager seem so pitiful.[58]

Human bonds, love and its ties, form another dramatic motive. In *Erechtheus* the bond between Erechtheus, Praxithea and Chthonia is perfect. Each is faultless in the other's eyes. Hence the breaking of this bond seems the more pathetic. In *Atalanta* the situation is even more tragic. Althaea is torn between her love for her son and her duty toward her kin. This breaking of

[57] *Atalanta in Calydon,* p. 247.

[58] *Erechtheus,* p. 504, 376. *Atalanta in Calydon,* p. 271, 325–326.

family ties, and the revenge to be exacted for shedding blood were themes very familiar to Greek tragedy.[59]

Throughout both plays by Swinburne appears the persistent problem of existence, how best to live to satisfy the gods. When Althaea is warning Meleager she describes to him a well-ordered life.[60]

> Child, if a man serve law through all his life
> And with his whole heart worship, him all gods
> Praise, . . .
>
> Be man at one with equal-minded gods,
> So shall he prosper; not through laws torn up,
> Violated rule and a new face of things.

Life is represented as a bitter and uncertain chance which man is powerless to better. Althaea says:[61]

> and what chance
> The gods cast lot for and shake out on us,
> That shall we take, and that much bear withal.

The chorus in *Atalanta* describes the life of man as made up of strange elements, combined by the gods in some inexplicable way.[62]

> Before the beginning of years
> There came to the making of man
> Time, with a gift of tears;
> Grief, with a glass that ran;
>
> Pleasure, with pain for leaven;
> Summer, with flowers that fell;
> Remembrance fallen from heaven,
> And madness risen from hell;
>
> Strength without hands to smite;
> Love that endures for a breath;
> Night, the shadow of light,
> And life, the shadow of death.

[59] Cf. *Agamemnon, Orestes, Antigone,* etc.
[60] *Atalanta in Calydon,* p. 265.
[61] *Ibid.,* p. 258.
[62] *Atalanta in Calydon,* p. 258.

No solution is given for this problem of life. Man can only endure sturdily, steadfastly. He must accept what is and seek relief in great-heartedness, courage and freedom of spirit. He should have the *eupsychia* of Euripides,[63] "stout heartedness, pluck in the noblest sense of the word—that temper of soul which prepared the individual to sacrifice himself for the state and to triumph in pain or death in dogged endurance rather than give way to feebler instincts."

This is the fortifying motive of much of Swinburne's poetry. Mr. L. C. Wilcox summarizes the poet's teaching in this sentence:[64] "Who endures to the end, who makes no compromise with truth, who asks no reward and fears no punishments, shall come somehow to truth and liberty, and shall grow into knowledge of the things of the spirit."

It remains to see whether the "unities" were observed in Swinburne's plays. It has been seen that all the action was carried on in the presence of the chorus. As said before, the members of the chorus serve as sympathetic spectators. Thus the chorus is the main factor in keeping the action of the play within the "unities." No scene can be presented that cannot take place before the chorus, and no incident be depicted that would be outside of their knowledge. In this respect both *Atalanta in Calydon* and *Erechtheus* conform strictly to the Greek observance of "unities." In each play there is but one story. All details are subordinated to working out this plot before the chorus. So too the "unities" of time and of place are carefully observed. In both plays the action takes place before the palace of the king. Whatever of the plot cannot be presented there is described by messengers. The whole action is supposed to take place in the space of a morning. Thus both plays represent one continuous scene, given with fixed limits of time and place.

The action of each play develops to a climax from an opening situation, described by narrative. The long prologue, given in

[63] Symonds, *Studies of the Greek Poets,* Vol. II, p. 38.

[64] *The Fortifying Principle in Swinburne.* L. C. Wilcox, *North American Review,* Vol. 190, pp. 93–100.

monologue form, in which the situation is disclosed, is again Euripidean. The part of the chief huntsman in *Atalanta in Calydon,* who describes the ravages of the boar sent by Artemis and the preparations for the hunt, might be compared with the part of Apollo in Euripides' *Alcestis,* or of Poseidon in his *Daughters of Troy.* The prologue of *Erechtheus* might be compared with that of *Iphigenia among the Tauri,* or the part of the nurse in *Medea.* In both Swinburne's plays, the end is anticipated by foreboding. In *Atalanta in Calydon* the queen of Calydon, Althaea, tells the chorus how she once dreamed she had brought forth a firebrand. When Meleager was born the Fates came and prophesied[65] that he should live no longer when the brand on the hearth was burned. So she had plucked out the brand and kept it. A huntsman at the opening of the play in his song to Artemis to speed the hunt has already told that Atalanta has come from Calydon to join the chase. Throughout Althaea's confidences with the chorus, it is clear that Meleager is possessed of a great love for this huntress who has dedicated her life to Artemis. The queen hints[66] at passionate scenes between her brothers and Meleager because of the part Atalanta is to take in the hunt. This opening situation is developed through the quarrel[67] between Meleager and the brothers in the presence of Atalanta. The wrangling of the youths creates the feeling that the hunt starts under unfavorable omens. A long choral ode fills in the time from the departure of the hunters till the entrance of the messenger who comes to tell of the victorious ending of the hunt. The hopes of the hearers are raised. It seems as if, after all, the troubles forecast by the queen had been averted. The chorus sings a joyous ode to nature which closes with a prayer to Artemis. They have no sooner ended this outburst of thanksgiving than another messenger enters and announces that the queen's brothers have been slain by Meleager, because they tried to deprive Atalanta of the spoil of the boar. Meleager had given

[65] *Atalanta in Calydon,* p. 256.
[66] *Atalanta in Calydon,* pp. 254–255.
[67] *Ibid.,* pp. 279–281.

her this because she first had wounded the beast. From this point the plot moves rapidly to the end. Althaea after wrestling against the gods yields to the curse that is upon Meleager. She forebodes the fate of her son when promising fit burial for her brothers.[68]

> But ye now, sons of Thestius, make good cheer,
> For ye shall have such wood to funeral fire
> As no king hath; and flame that once burnt down
> Oil shall not quicken or breath relume or wine
> Refresh again; much costlier than fine gold,
> And more than many lives of wandering men.

The spectators see the final working out of the curse when the dying Meleager is brought home by his father. It is clear then that Althaea had taken the brand that measured her son's life and had made of it a funeral fire for her brothers.

In much the same way the plot of *Erechtheus* is developed. In a prayer to earth Erechtheus tells how Poseidon is angry at Athens because he had been beaten in a contest with Athena for its possession. The god had hurled the force of his waves against Athens from the sea, and from the land besieged it with the forces of his Thracian son Eumolpus. An oracle has told Erechtheus that the anger of the god can be appeased only by the sacrifice of one of his daughters. This situation is developed through scenes where this news is broken first to the queen and next to Chthonia, Erechtheus' daughter. The maiden offers herself as a sacrifice to save her city. The account of her death, and of the final struggle between the Athenian and Thracian forces is described by messengers. The Athenians have been victorious, but Erechtheus has been slain by a thunder-bolt. The Athenians, however, have not been deserted by the gods. Athena, like the *deus ex machina* of Euripides,[69] appears and consoles the forlorn queen and her people by promising great glory to her city.

The limits of this paper will not allow discussion of the

[68] *Ibid.*, p. 304.

[69] Cf. Euripides' *Electra*, ll. 1238–1356.

sources[70] of the plots of *Atalanta in Calydon* and of *Erechtheus,* nor is this topic essential to the main theme of the paper.

In the foregoing discussion an attempt has been made to show Swinburne's close adherence to the principles of the classical Greek Drama. As said earlier, he was not a mere imitator. He not only made his dramas conform in nearly every respect to the severe type of Greek drama, but when he composed them, he seemed almost to be able to put aside the personality of the modern poet, and to experience the sensations of a Greek poet. Yet with this remarkable ability to revive the life and the spirit of another age, he seems to have missed that cardinal virtue of the Greeks, their self restraint. He seemed never to have learned their maxim, "nothing to excess." His plays contain too much poetry. There is too much of fire, wind, sea, the gods, and fate. Beautiful as both plays are in parts, the whole impression is blurred. The reader is given the sensation of viewing a scene through some opaque or opalescent substance. On the whole, however, the plays seem remarkably faithful reproductions of the Greek lyric tragedy.

[70] For the myth of Meleager see: Homer, *Iliad,* IX, 527; Apollodorus, I, 8; Hyginus, *Fabulae,* 171; Ovid, *Metamorphoses,* VIII, 260–545. Diodorus Siculus, IV, 34.

For the myth of Erechtheus see: Apollodorus, III, 14, 15; Euripides, *Ion;* Ovid, *Metamorphoses,* II, 553; Hyginus, *Poetica Astronomica,* II, 13; Pausanias, I, 2, 5, 8.

III.—ENGLISH INTERJECTIONS IN THE FIFTEENTH CENTURY

BY MARY CRAWFORD

INTRODUCTION

SCOPE AND LIMITATIONS OF TREATMENT

The interjections listed in the present study are grouped according to usage. Their various forms and meanings are noted, together with examples of their occurrence. The treatment has been expanded to include not only simple interjections but interjectional phrases, since the latter, in idea, represent single words. In the York Mystery Plays, when Moses again changes the serpent into a wand, Pharao's *Hopp illa hayl* is not a curse but an expression of astonishment. Further, oaths can in no sense be considered other than as ejaculations, else, in the Towneley Plays the shepherds would not be made to swear, anachronistically, by Saint Thomas of Kent; nor would Herod refer so frequently to Mahomet.

The Chester cycle of mystery plays is not included in the material examined. Although the plays themselves were presented before 1400, the four manuscripts which have come down to us date from 1592–1607. On the other hand, the works of Gavin Douglas and of John Skelton have been included, though they are assigned to a time later than the fifteenth century. For example, Mr. Ramsay, who edited the *Magnyfycence* in 1906, decides that it was written about 1516.[1] Both Douglas and Skelton have been considered, however, as affording legitimate material for this study. They were born near the middle of the fifteenth century, and, doubtless, they drew largely upon the experience of their earlier years for the interjections found in their pages.

[1] *E. E. T. S.*, extra series 98. Introd., p. 25.

The fifteenth century was chosen as a basis for this investigation because of its intermediate position. Looking backward to Chaucer and the past, and forward to the Elizabethans, the period, like all formative periods, has especial interest for the student of language.

CHIEF SOURCES OF MATERIAL

A large proportion of the material for the present study has been gleaned from the mystery and morality plays, which are characteristic of the fifteenth century. This is to be expected, for it is in the drama that we find the emotions portrayed most vividly. *The Paston Letters,* which have afforded so rich a field for linguistic studies, have yielded little to this investigation. Theirs is the dignified style common to correspondence of that date, a manner which does not admit ejaculations. The dramatic literature shows the life of the people, their jests, their roguery, their aspirations, their ideals. The romances reflect the tastes of the higher classes, and are so artificial in nature that the emotions depicted are under excellent control. The author usually tells his story himself, without frequent interruptions from the persons chiefly concerned. When the hero directly acquaints us with his state of mind, he confines himself to such colorless interjections as *ah! alas!* and *gramercy!* For vigorous, hearty interjections the York and the Towneley plays are most remarkable. The Coventry and the Digby cycles, which have come to us in later form, are more reserved in nature. They emphasize the ethical and religious interests of mediaeval life. Such interludes as they contain are clearly not intended to be comic. Verging upon the morality play, they lack opportunity to present humorous situations with the accompanying emotions.

Of the moralities, Skelton's *Magnyfycence* yields the most material. Indeed, this play is extremely prolific in oaths, containing no less than eighty-five different forms in the space of its few pages. These various oaths are repeated again and again. The same one may be found three times in as many lines. Including other exclamations, of which there are not a few, each page is thickly besprinkled with interjections. Occasionally one line is

made to contain three of these expressions, all vigorous and highly colored. This is illustrated in line 2324, where Dyspare cries: "Out, harowe! hyll burneth! where shall I me hyde?"

SOME POINTS OF USAGE

Common ejaculations of the fifteenth century are those expressing sorrow, consternation, anger, or contempt, as *we! harrowe! owe! owte! allas! tush!* Those most typical, however, are the asseverations, or emphatic denials, which employ oaths and mutilations of the name of God. Familiar illustrations of the latter are the words *Cock* and *Gog* in various combinations.

The romances have no rogues. Their characters move on so high a plane that the display of strong emotions is forbidden them. It is upon the more lowly that the plays depend for their color. As a rule, the exalted characters of the drama use no greater number or variety of exclamations than do heroes of chivalry. Even in the York cycle, Dominus employs practically no interjections. Once, indeed, he is made to say *A!* when in his sorrow he curses the serpent. But, throughout, his language is on a very dignified plane, as is that of the angels of heaven. The more noble among the human characters, such as Mary, Elizabeth, Simeon, and the three kings, are permitted the use of such expressions as *alas!* and *woe is me!* But the shepherds, the soldiers, and the torturers have a wide range including interjections which I have not found elsewhere. In the York Mysteries the shepherds use *hudde!* and *colle!* to express their astonishment when they see the star.

Although these plays distinguish between the high and the lowly in the display of emotion, a closer distinction is made between the good and the evil characters. Cain and Abel are both rustics, but Cain goes to the extreme in his use of abusive language, while his brother is mild and gentle-mannered. Lucifer and his angels are not restricted as to their exclamations, and Herod knows no bounds. It is interesting to note that Herod's favorite ejaculation is the anachronistic *by Mahounde!* In this way the authors could best make known to a mediaeval audience the antipathy between Herod and those of the Christian faith.

In the *Magnyfycence* it is not the prince and his good counsellors who make generous use of oaths, but Fansy, Foly, Counterfeit Countenance, and the like. Fansy, indeed, rarely speaks without some imprecation.

On the whole, the fifteenth century literature seems to reflect an increase over earlier periods in the use of interjections. A few forms seem to be disappearing, as Chaucer's *avoy!* or the exclamation *lo!* in meaning equivalent to the Old English *la!* In early Middle English the latter indicated joy, sorrow, or wonder, but instances of its use in these meanings are almost wholly lacking in later Middle English. The fifteenth century *lo!* is a call for attention, and is perhaps a shortened form of the verb *loke* (look). On the other hand, many expressions found in the early sixteenth century are apparently absent in the fifteenth. Among these are the following, from Sir David Lyndesay: *be sueit Sanct Geill! be Sanct Fillane! for God's luife of heavin! be God's croun!* and *suyith!* (hence, away); also, *by Belzabub! by Gis!* and *by my lewtie!*

As regards derivation, it may be noted that while there are many interjectional expressions of French as well as of vernacular origin, those from the Norse are few and of little relative significance.

SURVEY OF INTERJECTIONS

I. *Interjections Expressing Surprise, Astonishment*

The most common ejaculations found in the fifteenth century are those expressing the more primitive emotions, as wonder, fear, anger, or grief. Of these, wonder is represented in greatest variety.

The same interjection often occurs in different uses. In these cases, the illustrations quoted may be few, but further examples are cited under another head.

benste, benedicite. In meaning usually equivalent to modern *bless us!* These are shortened forms of the plural imperative of Latin *benedicere,* to praise; later, to bless.

Towneley Plays, xiii, 55, Pastor: Benste and dominus! what may this bemeyne? *Towneley,* xiii, 359, Pastor: Benste be here in! *Coventry Plays,* xii, Joseph: A! lord God, benedicite! *Magnyfycence,* 257, Fansy: Now, benedicite, ye wene I were some hafter.

In the last example, *benedicite* is so lacking in force as to be almost an affirmation.

colle. Meaning is uncertain. L. T. Smith (*York Mystery Plays,* 119) thinks it equivalent to modern *golly!* The word seems to be a quasi-oath and may be a form of *goles,* which (see *Oxford Dictionary*) is used only in exclamations, as, *by goles,* meaning by God. Instances of the use of *colle* are rare.

York Mystery Plays, xv, 39, Pastor: We! colle! *York,* xv, 54, Pastor: We! no colle!

ey. Cf. modern dialectal use, *ay, ay,* to indicate mild surprise. (*English Dialect Dictionary.*) See also *ey* as a call for attention (xvi, 4). The etymology is difficult. The *Oxford Dictionary* says: "The ME. *ey* is probably a natural ejaculation, nothing similar being found in OE. There is a greater possibility of its being an adoption of OF. *ai,* but this would almost certainly have given *ay, ai,* which are not found, even as variants, in ME." But compare the following example, *York Mystery Plays,* xxviii, 232, Malcus: Malcus! a ay! and I schulde be rewarde. Here it does not appear that Malcus is assenting to anything. He is expressing his ill humor. Again, the forms *ey* and *ay* seem to be used interchangeably in ME. to indicate assent, as seen in examples expressing affirmation, cited under xiv. Hence, they might well be variants in the case under discussion. The word, then, may possibly have been adopted from the OF. *ai, aie,* which, according to Littré, was an old form of *aider,* to help.

Mankind, 354, New-Gyse: Ey, how ye turne þe erþ wppe & down! *Castell of Perseverance,* 1575, Malus Angelus: Ey, what deuyl, man! *Coventry Plays,* xvi, Pastor: Ey, ey! this was a wondyr note. *La Male Regle de T. Hoccleue:* Ey, what is me.

[**Eh**]. This may be a modernization of *ey*. The examples quoted are from A. W. Pollard's *Fifteenth Century Prose and Verse,* in which the modern spelling has been used throughout. For other illustrations, see [*Eh*] in Affirmation, xiv.

The Nativity, Pastor: Eh! friends, there came a pirie of wind.

how, howe, howe now. Modern *how!* or *what!* In expanded form, *how is this?* OE. *hū.* In exclamations, *hu la!*

York Mystery Plays, xv, 37, Pastor (on seeing the star): We! howe! *York,* xi, 386, Rex: Howe nowe! es there any noyes of newe? *Towneley Plays,* xxv, 152, Satanas: How! in tyme that tale was told.

hudde. This interjection is equivalent to modern *whew!* according to L. T. Smith (*York Mystery Plays,* 119). The examples cited are perhaps the only instances of an interjectional use of the word. The etymology is dark. The form may be connected with *hudd(e),* a dialectical form of *hood,* in common use during the fifteenth century. The verb *huddle* is a diminutive, perhaps from Teutonic root **hud,* to cover. (See *Oxford Dictionary.*) OE. *hydan,* hide.

York Plays, xv, 37, Pastor: We! hudde! *York,* xv, 46, Pastor: Whe! hudde! be-halde into the heste! (east).

ille hayle. Originally meaning *ill luck.* Here, expressing astonishment. Compare OE. *hæl,* prosperity. The Middle English *hayle* is probably of Scandinavian origin. (Björkman, *Scandinavian Loan-Words in Middle English,* pp. 39, 44.) Cf. *hayle* expressing a greeting (XII). See also combinations with *hayle,* expressing terror (II).

York Plays, xxviii, 287, Malcus (when his ear is restored): What! ille hayle! I hope þat I be hole!

O. Equivalent to modern *why!* See *O!* expressing lamentation (III); impatience (IV); adoration (IX); and its use with the vocative (XXI). This interjection is more common with us than in ME., having to a great extent replaced the older *A!*

York Plays, viii, 41, Noe: O! mercy, lorde, quat may þis meyne?

ow, owe. Probably modern Scotch *ow,* used in a concessive sense. In ME. it expressed astonishment, as well as other emotions. Compare *ow* showing consternation (II); lamentation (III); and exultation (XI).

Coventry Plays, xii, Joseph: Ow! dame, what thinge menyth this?

out, outte, owte. This seems to have lost its force as an elliptical expression and to have become, in ME., purely interjectional. It is most commonly used in connection with other ejaculations. See, also, *out* expressing terror (II); lamentation (III); and anger (IV).

York Mystery Plays, xxxiii, 161, Cayphas: We! outte! . . . so I stare. *York,* xxxiii, 166, Cayphas: Out! slike a sight suld be sene! *York,* xxviii, 259, Judaeus: We, oute! I ame mased almost.

we, whe. Here, equivalent to modern *why!* Corresponds to OE. interjection *wā!* It may come directly from OE. *wēa, wǣ,* either of which would become ME. *wę.* Björkman (*Scandinavian Loan-Words in Middle English,* p. 39) sees no sign of a Scandinavian origin here. The OE. *ǣ* of *wǣ* was not diphthongal, and probably depends on Latin *vœ.* Compare *we* indicating consternation (II); sorrow (III); and anger (IV).

York Plays, xv, 49, Pastor: We! telle me men, emang vs thre. *York,* xxxviii, 298, Miles: Whe! harrowe! deuill, whare is he away? *York,* xxxiii, 236, Preco: We! nay sir, why shuld I be soo? *York,* xv, 38, Pastor: We! man, þou maddes all out of myght. *York,* xxx, 378, Miles: Whe! harke how þis harlott he heldis. *York,* xv, 46: Whe! hudde! be-halde into the heste!

wemmow, wemay, wemo, wema. For other forms and examples see interjections expressing irritation (IV); contempt (VI); and a call to stop XVI, (2). Etymology uncertain. It may have been originally a curse, connecting with OE. *wemman,* to defile. Cf. Wright, *English Dialect Dictionary.*

Towneley Plays, xxvii, 291, Lucas: Wemmow! where is this man become?

what. OE. *hwæt!* the neuter form of *hwā,* who. An introduc-

tory expletive, frequent in OE. narratives. *Beowulf* and *Andreas* open with this form. *Hwæt* stands at the beginning of a new topic. It serves as introduction to an address in the midst of a longer speech. Less forcefully, it is used as a weak interjection, in which office it persists as late as the sixteenth century. As in modern English, it frequently introduces declarative, as well as interrogative, sentences. (Cf. Wülfing, *Syntax in den Werken Alfreds des Grossen,* 688 ff.) According to Grimm, *Deutsche Grammatik,* iv, 448 ff., this use of the neuter of the interrogative pronoun as an exclamation is peculiar to Old English and Old Saxon.

Magnyfycence, 288, Magn: What! I have aspyed ye are a carles page. *Magn.,* 384, Fansy: What! sholde you pynche at a pecke of grotes. *York Plays,* xv, 44, Pastor: Say, felowes, what! *York,* xxvi, 184, Janitor: What! demes þou till oure dukes. . . . *York,* xxviii, 287, Malcus: What! ille hayle! I hope I be hole. *Everyman:* What! weenest thou that I am thine?

why. OE. *hwī hwȳ,* instrumental of *hwæt* or *hwā,* used adverbially. Cf. also *why* expressing anger (IV).

Everyman: Why, ye said if I had need. *York Plays,* x, 189, Isaac: Why! fadir, will God þat I be slayne? *York,* xi, 314, Rex: Why! is ther greuaunce growen agayne? *Magnyfycence,* 1307, Fansy: Why, shall I not haue Foly with me also? *Magn.,* 509, Counterfeit Countenance: Why, shall we dwell togyder all thre? *Magn.,* 510, Crafty Conveyance: Why, man, it were to great a wonder.

II. *Consternation, Terror*

In the list of interjections expressing terror are found a few peculiar forms which are of rare occurrence, but which are, therefore, of greater force. Others, more common, are listed under several headings. The word *harrow* might well have been included in this division since there is a close connection between the feeling of fear and a cry for rescue. Examples of this interjection, however, are cited under calls for help, XVI (1).

dewes. Perhaps equivalent to modern *deuce!* But cf. the *Ox-*

ford Dictionary on the etymology of the latter. *Dewes* is from OF. *deus,* nominative form of *deu,* modern *dieu,* God. Not in native English use, but sometimes kept in translation, or put into the mouth of a foreigner or of a fiend.

York Plays, i, 92, Lucifer: Owe! dewes! all goes downe!

dyce. Apparently a variant of *dewes,* in the example cited below. Mr. Ramsay, however, classifies it under the head of oaths by miscellaneous objects. (See his edition of *Magnyfycence,* E. E. T. S., extr. ser. 98, p. 83.)

Magnyfycence 781, Crafty Conveyance: Nay, come at ones, for the armys of the dyce!

hyll burneth. *Hyll* is evidently a variant of *hell,* from OE. *helan,* hide, conceal. *The Oxford Dictionary* does not enter the form *hyll,* however. In the *York Plays* (xxix, 82 and xxxii, 21) *hille* and *hillis* are used as verbs meaning to cover.

Magnyfycence, 2324, Dyspare: Out harrowe! hyll burneth! where shall I me hyde?

hopp illa hayle, wyth yllahayll. Meaning, originally, *ill luck seize him!* A more intensive form of *ille hayle,* in I, above. *Hopp* comes from the OF. *happer,* to seize suddenly. The French form is either borrowed from the Hollandish *happen,* to bite, with which the meaning accords, or it is simply imitative of the sound of the mouth which seizes, bites (Littré).

York Plays, xi, 245, Rex: Hopp illa hayle! *Towneley,* viii, 258, Pharao: wyth ylahayll!

owe. See *owe* expressing surprise, in I above.

York Plays, i, 92, Lucifer: Owe! dewes! all goes downe! *York,* xi, 347, Rex: Owe! come þat in our presence?

out, outte. For etymology, cf. *outte* expressing astonishment in I above. See, also, under sorrow, lamentation (III); and anger (IV).

York Plays, xxxviii, 288, Miles: What! oute allas! what schall I saie? *York Plays,* xi, 403, Rex: Owte! ay herrowe! devill, I drowne! *Wisdom,* 907, Mynde: Out! I tremble for

drede, by Sent Powle! See, also, examples cited under *we,* below.

we, whe. For discussion, see *we* expressing surprise, I above. Cf. also *we* under sections III and IV.

York Plays, xxxiii, 269, Cayphas: We! out, we are shente alle for shame. *York,* ix, 99, Uxor: We, owte, herrowe! *York,* xxxviii, 298: Whe! harrowe! deuill, whare is he away? *York,* xi, 338, Rex: We! lorde, new harme is comon to hande.

III. *Sorrow, Lamentation*

Exclamations of sorrow are most frequent, although they are not found in so great variety as those of some other classes. All the interjections listed in this division are common in the fifteenth century, and all occur more or less frequently in modern literature.

a, ha, ha a. Sometimes repeated, *a, a.* Not found in OE. Perhaps from OF. *a! ah!* As an expression of physical pain it has been superseded, in modern usage, by *Oh!* Cf. also *A! ha!* expressing anger (IV); and joy (X).

Merlin, 546: A, leeve Soster what do ye here? *Merlin,* 1019, A, Faire sone, quod sche thanne tho. *Three Kings' Sons,* p. 8, l. 18. A, verray God! y may do the no service. *York Plays,* v, 150, Dominus: A! wikkid worme, woo worthe the ay. *Digby Plays, Burial of Christ,* 450, Mary: A, a, my dere sone Jesus. *Merlin,* 439: Ha, Sire, sche Seide, J am ful wo! *Eneydos,* ch. 41: Ha, a, fayre sone! The following from *Magnyfycence,* 1729, expresses physical pain: Magn.: A, my hede!

alas, allas, alasse, allace, alese, allese. Meaning *ah wretched!* Compare French *hélas!* OF. *ha las! a las!* a combination of *ha* and *las, lasse,* wretched, originally, weary, from Latin *lassum.* Sometimes found with a substantive, as *alas the while.*

Digby Plays, Burial of Christ, 453: Allese, scho commys! A, what remedye! *Magnyfycence,* 1847, Fansy: Alasse, alasse, an heuy metynge! *Castell of Perseverance,* 1289, Bonus Angelus: alas! Mankynde is bobbyt & blent as þe blynde! *Everyman:* Alas! shall I have no longer respite? *Digby Plays, Christ's Resurrection,* 1191, Petrus: Alese! of myself why presumyd I.

Towneley, x, 313, Joseph: Alas, what am I wo! *York,* i, 115, Lucifer: Yhe ly, owte, allas! *Robin Hood Ballad,* 8th fytte: Alas! then said good Robin, Alas and well a wo! *Morte Darthur,* ii, ch. 18: Allas, sayd balyn, that euer I shold see this day! *Nativity,* Herod: Into Egypt? alas for woe! *The Murning Maiden:* My sweit, allace! quhy dois he so? *The Quare of Jelusy,* 202: Allace, þe wo! allace þe sad greuance!

O, Oo, ow, in ME. expresses physical pain, sorrow, terror, surprise, impatience, or exultation. Cf. sections I, II, III, IV, IX, and XI.

York Plays, vii, 79, Brewbarret: O! maister Caym, I haue broken my to! *York,* xxxiv, 154, Mary: Oo! doulfully nowe is he dighte. *Morte Darthur,* ii, ch. 6: O Balyn two bodyes thou hast slayne. *Castell of Perseverance,* 2989: ow, ow! my good gothe al to wrak! *Magnyfycence,* 2048: O feble Fortune, O doulfull Destyny!

out, owte. See *out* expressing surprise (I); consternation (II); and anger (IV).

York Plays, i, 97, Lucifer: Owte owte! harrowe! helples, slyke hote at es here. *York,* i, 104, Lucifer: Owte! ay walaway! I well enew in wo nowe! *Towneley,* ix, 74, Imperator: Out, harow, full wo is me! *York,* i, 105, Diabolus: Owte! owte! I go wode for wo. *Castell of Perseverance,* 2148: Out! myn herte gynneth to breke. *Castell of Per.,* 2200: Out! my prowde bak is bent!

wa, wo, woe. OE. *wā, wō,* modern *woe.* Compare Scotch usage, *wae's me!* For further discussion of OE. *wa* cf. *we,* expressing surprise (I).

York Mystery Plays, i, 113, Lucifer: Walaway! wa! es me now, nowe es it war þane it was. *York Plays,* xiii, 143, Joseph: Allas! me is full wa! *Towneley,* xiii, 35, Pastor: Woe is me this dystres! *Quare of Jelusy,* 202: Allace, þe wo! allace, þe sad greuance! *Merlin,* 439: Ha, Sire, sche Seide, I am ful wo! *Nativity,* Herod: Into Egypt! alas for woe!

woo (wa) worthe the. Meaning, *woe come to thee!* For *woo,*

see *wa* above. The form *worth* comes from OE. *weorþan*, happen, become. Originally a curse, this expression has lost most of its force.

York Plays, v, 107, Adam: Ille counsaille woo worthe the! *York,* vi, 51, Eua: wa worthe þe whyle! *York,* v, 150, Dominus: A! wikkid worme, woo worthe þe ay! In the last example, the idea of malediction is still forceful.

we. For discussion, see *we* expressing surprise (I) above. Cf. also *we* expressing consternation (II) above, and anger (IV) below.

York Plays, xi, 313, Egyptian: We! lorde, we may not lede this liffe. *York,* xiii, 141: Joseph: We! why gab ye me swa? *York,* xxviii, 273, Malcus: We! oute! all my deueres are done. *York,* xi, 139, Moses: We! lord, þai wil noght to me trayste. *York,* i, 115, devil: We! lurdane, þu lost vs. *Towneley,* iv, 128, Abraham: Shuld I that ganstand? We, nay, ma fay!

walaway, wala way, well a way, well a wo, well-away, wele-wo, walo-way, welawo, weleaway, welaway.

With some modification, this expression of grief has come down in Shakespeare as *well-a-day!* Compare *woe the day!* See, also, Rossetti's revival of it in the refrain (*A Death-Parting*), "Water-willow and well-away!" Originally OE. *wā-lā-wā,* which properly meant *wo! lo! wo!* For discussion of *wo,* see *wa* above, and *we* expressing surprise (I). For *lo!* cf. calls for attention in XVI, 4.

Castell of Perseverance, 3035: Ye, a-las, & welawo! *Castell of Per.,* 3070: weleaway! I was ful wod. *Nativity,* Joseph: Well-away! woman, now may I go. *Robin Hood Ballad,* 8th fytte: Alas, then said good Robin, Alas and well a wo! *Towneley Plays,* v, 36, Esaw: Now, alas, and walo-way! *Towneley,* I, 132, Demon: Alas, alas, and wele-wo! *Battle of Agincourt,* Therefore their song was Well a way! *York,* i, 113, Lucifer: Walaway! wa! es me now, nowe es it war þane it was. *York,* xxxii, 309, Judas: So wala way! *Coventry Plays,* xii, Joseph: Alas and welaway!

IV. *Impatience and Anger*

Most of the interjections expressing anger perform a double office, being found in other uses. A few of the forms are peculiar to Middle English and, even in the fifteenth century, are of rare occurrence. Of those which have come down to us, some have lost much of their original force.

a, ah. For discussion, see *a! ah!* expressing sorrow (III) above. Cf. also *a! ah!* expressing joy, in X below.

Nativity, Herod: Ah, that these villain traitors hath marred. *Towneley Plays,* ix, 76, Imperator: A, fy, and dewyls! whens cam he? *York,* xxviii, 235, Cayphas: A! sir, of your speech lette, and late vs spede.

ay. Cf. *ey* expressing surprise, in I, above; also *ay* in affirmation (XIV).

York Plays, xxviii, 232, Malcus: Malcus! a ay! and I schulde be rewarde.

dogge, dogges. In use from the thirteenth to the fifteenth centuries as a deformation of the name of God, but found infrequently in the fifteenth. Indeed, in the examples cited, it may not be an expletive, but simply the substantive *dog,* as a term of abuse. However, the general context indicates its interjectional use. Compare modern French, "Quel chien de temps!" and English slang, "What dog-gone weather!" Julian Sharman, in *A Cursory History of Swearing,* ch. iv, says: "Examples can be quoted of the occurrence of the word *dog* or *dogue,* as a malediction similar to that of 'goddam,' and at a date nearly as distant." Mr. Sharman, however, explains the term as originating in a game of chance, popular with the old Greeks and Romans. In that case it would be similar in meaning to the word *deuce!* used in games, and, in modern usage, an exclamation of annoyance. It may be noted here that this *deuce!* is not the ME. *dewes!* (cf. II, above).

York Plays, xi, 240, Rex Pharao: A! dogg! þe deuyll þe drowne! *York,* xix, 106, Herod: A! dogges, þe deuell you spede! *York,* xvii, 121, Herod: In þe deuyl way, dogges, Fy!

Magnyfycence, 303: Go shake the, dogge, hay, syth ye wyll nedys!

Do way,—wey, away. OE. *weg* in reference to conduct. Meaning *put away! have done!* Compare *do wey* expressing reproach, in V.

York Plays, v, 60 Satan: Woman! do way! *Mankind,* 82, Mercy: Do wey! do wey this reuell, sers, do wey! *Mankind,* 83, Now-a-Days: Do wey, goode Adam! do wey! *Mankind,* 576: Do wey. I wyll no more so oft on the chyrche-style. *Magnyfycence,* 397, Fansy: Do away, I say!

fy, fye, ffy, fie. Modern French *fi!* Apparently an OF. *fi-fi,* Latin *fi,* an imitation of a sound instinctively made upon noticing a disagreeable smell. Old Norse *fy* of similar origin. Danish *fyskam* (of like origin), fie! shame to you! In modern use *fy* expresses contempt or reproach, but the examples found in ME. are used to express anger. The word retains something of its old force in the Elizabethan literature. Compare Macbeth, V, i, 35, "Fie, my lord, fie! a soldier and afeard!" Here Lady Macbeth expresses all the scorn which she made use of earlier in the play.

Magnyfycence, 2020: Fye on this worlde full of Trechery! *Magn.,* 1972: Fy, fy, that euer I sholde be brought in this snare! *York Plays,* xi, 67, Rex: Fy on þam! to þe devell of helle! *York,* xi, 217, Rex: Fy on the! ladde, oute of my lande! *York,* xxix, 298, Cayphas: Why! fie on þe faitoure vn-trewe! *York,* xxix, 328, Miles: What! fye on the beggarr! *York,* xvii, 121, Herod: In the deuyl way, dogges, Fy! *Towneley,* ix, 76, Imperator: A, fy, and dewyls! whens cam he? *Towneley,* xiii, 204, Mak: ffy on you! goyth hence out of my presence!

hagh, ha. A natural exclamation found in Greek, Latin, most modern Romance, and all modern Germanic languages. Not recorded in OE., but current in OF. and in ME. from about the fourteenth century. OE. had, however, the *ha, ha!* of laughter.

Towneley Plays, viii, 355, Miles: A, my lord! . . . Pharao: hagh! *Towneley,* ii, 33, Cayn: A ha! god gif the soro & care.

ho. Not recorded in OE. Here, equivalent to the *what* of indignation. Cf. *ho* used as a call for attention (XVI, 4).

Digby Plays, Conversion of Saint Paul, 454: Ho! owyt, owyte! he that I most trustyd to. *Towneley,* xii, 103, Pastor: A, good sir, ho! who am I?

how. For etymology, cf. *how* expressing surprise, in I above.

Towneley Plays, ii, 84, Caym: How! let furthe youre geyse, the fox will preche. *Towneley,* ii, 37, Cayn: How! pikeharnes, how! com heder belife.

O, ow, owe. For discussion, see *O, ow,* expressing surprise, in I, and sorrow, in III above. Also *O,* expressing terror (II), adoration (IX), and in its vocative use (XXI).

York Plays, ix, 93, Noe: O! woman, arte thou woode? *Castell of Perseverance,* 1358: ow! þat harlot is now bold! *Castell of Per.,* 2870: owe, Mankynde! hathe Dethe with þee spoke? *Castell of Per.,* 2883: ow, Werld! Werld euere worthe wo!

out, oute, owte, owyt, owyte. Discussed under *oute* showing surprise, in I above. See also the same word, in II and III.

The Nativity: Another way! Out! out! out! (Herod is angry, having learned that the three kings have returned by a different route.) *Towneley Plays,* ii, 275, Caym: We! oute! haro! help to blaw! *Digby Plays, Conversion of Saint Paul,* 454: Ho! owyt, owyte! he that I most trustyd to. *York,* ix, 98, Uxor: We, owte! herrowe! *York,* i, 108, Diabolus: Owte! on þe Lucifer, lurdan! *York,* i, 115, Lucifer: Yhe ly, owte! allas! *Mankind,* 436: Oute! ye xall not assay. *Castell of Perseverance,* 1414: owte on þee, dedly synne!

we. Compare *we* used to express astonishment, in I; terror, in II; sorrow, in III.

Towneley Plays, ii, 314, Caym: We! na! I aght the a fowll dispyte. *Towneley Plays,* xiv, 308, Herod: We, fy on dewyls! fy, fy! *Towneley,* ii, 323, Caym: We! yei! that shal thou sore abite. *Towneley,* ii, 53, Caym: We! now, no thyng, bot call on tyte. *York Plays,* xxxiv, 33, Miles: We! howe! high myght he hyng! *York,* xxxiii, 168, Pilate: We! ere ye

fonde, or youre force fayles you? *York,* xxxiii, 175, Pilate: We! spitte on them, ill mote þai spede! *York,* xxvi, 193, Pilate: We! speke on, and spare not þi spell.

wemay, wemo. Compare *wemmow* expressing astonishment, in I above; and *wema* expressing contempt, in VI below.

Towneley Plays, ii, 148, Caym: Wemay, man, I hold the mad! *Towneley,* ii, 198, Caym: Wemo, wemo, foure, lo, here!

what. For etymology, see *what* expressing surprise, in I above.

York Plays, xvii, 76, Herod: What! false losell, liste þe flighte? *Towneley Plays,* ii, 31, Caym: What! it semys for me ye stand none aw! *Towneley,* xiii, 201, Mak: What! ich be a yoman, I tell you, of the king. *Towneley,* ii, 39: What, boy, shal I both hold and drife?

why. Discussed under the subject of surprise, I above.

York Plays, xxix, 298, Cayphas: Why! fie on þe faitoure vn-trewe!

ya, yha, yei, yaa. Expresses angry shame, as well as impatience. Cf. also, affirmation, in XIV below.

Towneley Plays, ii, 323, Caym: We! yei! that shal thou sore abite. *Coventry Plays,* xii, Joseph: ya! ya! alle old men to me take tent. *York,* xiii, 224, Joseph: Yha! Marie, drawe thyn hende. *York,* xxxiii, 162, Annas: Ya, harrowe, of this traytour. *York,* xiii, 218, Joseph: Goddis sande! yha, Marie! *York,* xi, 210, Rex: Yaa! wende þou to þe devell of hell.

V. *Reproach*

Interjections expressing reproach are less numerous than those classified in the preceding divisions, and illustrations are more rare. Some are listed, with examples, in other meanings. All are in modern use, although, in most cases, found infrequently.

alas, allas. For discussion, see *alas, allas,* expressing lamentation, III above.

York Plays, v, 106, Adam: Allas! what haue I done, for shame! *York,* v, 84, Adam: Alas! woman, why toke þou þis? *York,* v, 88, Adam: Allas! thou hast done a mys.

do wey,—wa. Cf. *do way!* expressing impatience, in IV above.

Towneley Plays, x, 326, Angelus: Do wa, Joseph, and mend thy thoght. *York,* v, 121, Adam: Do wey, lefe Eue, whame þan?

go to. Expressing impatient reproach. Apparently more frequent in the next century.

Mankind, 89: Go to! for I haue hade a praty scott-lynge.

late be, let be. Meaning, *forbear! cease! let be!*

De Regimine Principum, 2103: Nay, lat be þat! *York Plays,* xiii, 297, Mary: Forgiffnesse, sir! late be! for shame. (Loving reproach.)

s(c)hame, for shame. OE. *scamu, sceamu.* Perhaps from *skam,* cover. *Shame* is an expression still used to express reproach.

York Plays, v, 106, Adam: Allas! what haue I done, for shame! *Kingis Quair,* 58: Sluggart, for schame! lo, here thy goldin houre. *Occleve, Jereslaus's Wife,* 87: ffor shame, fy.

wa worthe (you). For etymology see *wa worthe,* expressing lamentation, in III above.

York Plays, xiii, 97, Joseph: A! maidens, wa worthe you! *Castell of Perseverance,* 2883: ow, Werld! Werld euere worthe wo!

VI. *Mockery and Contempt*

Interjections expressing mockery occur less frequently than those representing the more primitive emotions. (See Class I.) The first three listed here are common in modern usage, having retained their original force. The place of the fourth in this class is doubtful. The remaining forms are rare, even in the fifteenth century.

strawe, stra. Figuratively used to indicate anything absolutely worthless. Still in use with the same meaning, though not in interjectional form.

Gavin Douglas, Prolog to Aeneid I, 17: Stra for þis ignorant blabring imperfyt! *Magnyfycence,* 549: Tusche, a strawe!

it is a shame! *Magn.,* 564, Fansy: Tushe, a strawe! I thought none yll.

tush, tushe, tusshe, tusche, tussch, tysche. Probably an assibilated form of *tusk.* Formerly, also *twish!*

Mankind, 783: Tysche! a flyes weynge! wyll ye do well! *Magnyfycence,* 650: Tusshe! fonnysshe Fansy, thou arte frantyke. *Magn.,* 786: Tusche! he that hath nede, man, let hym rynne. *Magn.,* 251: Tusche, hold your pece, your langage is vain. *Everyman:* Tush! by thy thanks I set not a straw! *York Plays,* xxxiii, 121, Pilate: Ya, tussch! for youre tales.

tut. Synonymous with *tush,* above.

Magnyfycence, 1745: Measure? Tut! what the deuyll of hell!

vath. Meaning is obscure. It may be connected with the French adverb *va,* from the imperative of Latin *vadere,* to go. The *-th* may be the personal ending of the verb; but this is doubtful. In the example quoted the word seems to carry with it the idea of mockery.

Coventry Plays, xxxii, Judaeus: Ya! vath! vath! now here is he That bad us dystroy oure tempyl on a day.

wassaille, wassaylle. Anciently, a salutation or toast, meaning, "health to you!" ME. *wæs hæil,* literally, "be thou well!" Icelandic *heill,* hale, sound, cognate with OE. *hāl.* For further discussion see *hayle* expressing greeting, in XII. *Wæs* is a variant of ME. *wes,* imperative of *wesan,* to be. (For form *wæs* in OE. cf. Beowulf, 407: Wæs þu, Hroþgar, hāl!) The only example of *wassaille* noted is not listed with greetings, because it is used in mockery.

York Plays, xxix, 372, Miles: Wassaille! wassaylle!

wema. Cf. *wemo* expressing surprise, in I, and anger, in IV above.

Towneley Plays, xxiii, 183: Tortor: wema, man! I trow thou doyte!

VII. *Pleading*

Under the head of pleading only one interjectional expression, *mercy,* is listed. The word *pity,* which today is commonly used in the same sense, has been noted with this use only once (*Notbrowne Mayde*). Apparently, in Middle English, this word retained more of its original meaning of *piety,* or kindness of disposition.

mercy(e). Meaning, as in modern English, mercy, goodwill, kindness. From Latin *merx,* price.

Nativity: Mercy, Mary! for now I know. *Nativity:* Mercy, Mary, while I live. *Coventry Plays,* viii, Anna: A! mercy, Lord! mercy! mercy! mercy! We are synfolest. *Coventry,* xxvi, Cives: Wherefore we alle at onys to the exorte, Cryeng mercy! mercy! mercye! *York,* viii, 37, Noe: O! mercy lorde, quat may þis meyne? *Wisdom,* 954: Mercy, Gode! why change I nowte. *Castell of Perseverance,* 116: Mercy, God! be now myn frende! *Castell of Per.,* 1300: Mercy, God, þat man were a-mendyd! *Murning Maiden:* Schir, mercy for your mycht!

VIII. *Gratitude*

As expressions of gratitude, only the word *mercy* and its variants have been noted. In the fifteenth century, evidently, the OE. *þanc* had been completely superseded by the French word.

gramercy(e), grammercy. Meaning *great thanks!* From OF. *grant merci; grant,* great, and *merci,* thanks. *Merci* formerly meant *reward,* from Latin *merx,* price. Hence, originally, *gramercy* was equivalent to "May God reward you greatly!" Both *mercy* and *gramercy,* without modifiers, were used as interjections, expressing thanks. Cf. Modern French *merci!*

York Plays, vii, 34, Abell: Gramercy! god of thy goodnes. *York,* xiii, 92, Joseph: Gramercy, Marie, saie what chere. *Siege of Harfleur:* Grammercy, Sirs, the king gan say. *Everyman:* Verily, Fellowship, gramercy! *Robin Hood Ballad:* Grammercy, Sir, said he. *Morte Darthur,* i, ch. 14:—and gave him King Lott, whereof he said gramercy. *Castell of*

Perseverance, 570: Mary, felaw, gramercy! *Guy of Warwick,* 6997: Syr, sche seyde, gramercye!

mercy. Meaning *thanks.* See *gramercy* above.

Coventry Plays, x: A! mercy! mercy! mercy! Lord, we crye, The Blysayd of God we se art thou. (The bishop is thankful because Joseph's rod buds.) *Coventry,* x, stage direction for above example: Et clamant omnes "mercy! mercy!"

God a mercy, godamercy. Meaning *thank you!* Equivalent to *God reward you!* See *gramercy,* above.

Digby Plays, Mary Magdalene, 619: Jesus: god a mercy, symont (Simon), þat þou wylt me knowe! *Digby,* the same, 958, Rex: now godamercy, berel brytest of bewte! *Magnyfycence,* 1313: God haue mercy, good godfather! *Nativity:* God have mercy, Joseph, my husband so meek!

IX. *Adoration, Praise*

In expressing a supreme emotion, interjections are few in number. Besides the ecclesiastical *ave* and the vernacular *hail,* there are found only natural exclamations combined with descriptive phrases showing an exalted mood.

a. For discussion, cf. *A!* expressing sorrow, in III above.

Wisdom, 77: A, soueren Wysdom, sanctus sanctorum! *Wisdom,* 83: A! soueren joy, my hertis affyance! *York Plays,* i, 41: A! mercyfull maker, full mekill es þi mighte. *York,* i, 121: A! lorde, louid be thi name. *York,* iii, 61: A, blissed lorde! *York,* viii, 41, Noe: A! lorde, I lowe þe lowde and still.

ave. Expresses adoration in salutation. For discussion and examples, see *ave* in greeting, XII below.

hayle. Like *ave,* expresses adoration in greeting Cf. XII, below.

O. Expresses adoration. See, also, *O,* expressing astonishment, in I; terror, in II; lamentation, in III; impatience, in IV; and its use with the vocative, XXI.

Wisdom, 69: O, worthy spowse, and soueren fayer. *Wisdom,* 74: O creator, louer of yowur creatur? *Wisdom,* 93:

O endles Wysdom! how may I haue knowynge Off þi Godhede incomprehensyble? *Wisdom,* 99: O soueren Auctour, most credyble!

X. *Joy, Merriment*

With one exception, the expressions of merriment listed in this division are confined to natural exclamations, repeated to form various combinations. Modern usage has added nothing to this mode of showing merriment.

a, ah. For discussion, see *a! ah!* used to express sorrow, in III above. Cf. also *a! ah!* expressing anger, in IV. In the first example cited, the definite meaning is satisfied expectancy.

The Nativity: Prophet: A! I preceive the seed. . . .

In the second example is shown enjoyment of a joke, purely merriment:

Magnyfycence, 1297: A, Syr, a, a! howe by that?

a ha, aha. A combination of *a!* and *ha!* formerly written separately. In the first example, again, the meaning is definitely a hope fulfilled.

Nativity, Pastor: Aha! now is come the time that old fathers hath told. *Magnyfycence,* 2448: A ha! Fansy and Foly met with you, I trowe. *Mankind,* 606: A ha! well! on! ron! Gode gyff hym ewyll grace!

ha, ha. The ordinary representation of laughter. For this form in OE., see *ha* expressing irritation, in IV above.

York Plays, xv, 65, Pastor: Ha! ha! þis was a mery note. *Towneley,* xii, 226, Pastor: Ha, ha, goderhayll! I let for no cost. *Eneydos,* ch. 57: Ha ha, valyaunte bacheler! *Magnyfycence,* 1110, Foly: Ha, ha, ha! herke, Syrs, harke! *Magn.,* 1202, Fansy: Ha, ha, ha, ha, ha, ha! *Magn.,* 2160: Ha, ha, ha! For laughter I am lyke to brast.

hay, ha. Indicates merriment in greeting.

Towneley Plays, xii, 86, Pastor: hay, ha! are ye in this towne?

ut hoy. An expression of joy. *Ut* is the name of a musical

note, from *ut* in the Latin hymn from which the names of the notes were taken.

An English Carol of the fifteenth century: Ut hoy! . . . Can I not sing but hoy!

XI. *Exultation*

Interjections expressing exultation are, in most cases, to be distinguished from those indicating simple merriment (see class X) by a boastful, self-gratulatory spirit. The greater variety of forms shows, too, the greater complexity of this mood.

a, ha. Cf. *aha, a ha,* expressing joy, or merriment, in X above.

Towneley Plays, xxii, 403, Tortor: A, ha! now ar we right arayde. *Castell of Perseverance,* 2688: A, A! þis game goth as I wolde.

away the mare, awey care. Both expressions mean *away with melancholy!* The mare was a kind of evil spirit or goblin supposed to produce bad dreams by sitting on the chest of the sleeper. Cf. modern *nightmare.* The word *mare* is also used as an oath. Cf. *Magnyfycence,* 1391: in the mare's name!

Magnyfycence, 1326, Foly: Now then goo we hens. Away the mare! *Wisdom,* 500: A, ser, all mery, þan! awey, care!

goderhayll. Meaning *good luck!* From the OE. *tō gōdre hale! hayll,* is from Old Norse, *heill,* sound, whole. See *hayle* in combinations expressing astonishment, in I; and terror, in II, above. *Goderhayll* is not connected with the word *God,* but *good.* Cf. modern Scotch *heal* in the sense of *health.*

Towneley, xii, 226, Pastor: ha, ha, goderhayll! I let for no cost.

ha a. For other uses, cf. *a ha! ha ha!* and *hay ha!* expressing merriment, in X above.

Morte Darthur, I, ch. 10: Ha A said Ban and Bors, they were my good friends. (Ironical.)

ho. Expresses boasting. See *ho* expressing a call for attention, in XVI, 4, below.

Digby Plays, Conversion of Saint Paul, 412: Ho, ho, be-holde me, the mygte prince of the parts in-fernall.

hof. Apparently equivalent to *ho!* above.

Digby Plays, Mary Magdalen, 491: Hof, hof, hof, a frysch new galavnt.

O. For other uses, see *O* in sections I, II, III, IV, IX, and XXI. As in modern usage, this form may express many different emotions, according to the context. In the following example it is used in self-gratulation.

York Plays, i, 65, Angel: O! what I am fetys and fayre and figured full fytt!

Owe, ow. See *ow!, owe!* expressing surprise, in I, above; consternation, in II; lamentation, III.

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrschip, i-wys! *York,* i, 92, Lucifer: Owe! what I am derworth and defte! *Castell of Perseverance,* 2779: ow, now it is tyme hye.

XII. *Greeting*

It might be supposed that the word *ave* would be set aside to indicate reverential greeting, and that the vernacular *hail* would serve as the more common form. As shown by the examples cited, however, these terms are used interchangeably to express great respect in greeting. The Norman French supplies the more colloquial form in *what cheer. Benste* and *God save you,* originally blessings, have, by the fifteenth century, become as lacking in force as the modern *good-bye.*

ave. Meaning *hail! welcome!* or *farewell! adieu!* From Latin *ave,* imperative of *avere, to be well* or *to fare well.* Identical in meaning with *wassail,* of Germanic origin. (Cf. *wassaille,* expressing mockery, in VI above.)

Coventry Plays, xiii, Maria: Gabryel come and seyde to me, Ave! *York,* xxxiii, 409, Miles: Aue! riall roy and rex judeorum! (Ironical.)

benste. For meaning and etymology, see *benste* expressing surprise, in class I.

Towneley Plays, xii, 46: Benste, benste, be us emang.

hayl(e), all hayle, heyl(l), alle heyl. Meaning *be hale! be well!* For other uses, see *hayle,* in combinations, to show surprise, in I; consternation in II, above. According to Björkman (*Scandinavian Loan-Words in Middle English,* p. 43) *hail* is probably a Scandinavian loanword. Compare Old West Scandinavian *heill,* Old Swedish *hēl.* Modern *hail!* is evidently not direct from OE. *hāl,* which would give *(w)hole;* nor from OE. *hǣl,* which, normally, would give modern *heal.*

Hail, as an interjection, implies respectful or reverential greeting.

Mankind, 202: All heyll, semeley father! ye be welcome to þis house! *Castell of Perseverance,* 1748: heyl, set in þyn selle! *Castell of Per.,* 1795: heyl, syr kynge! fayre þee be-falle! *York Plays,* xii, 145, Angel: Hayle! Marie! full of grace and blysse. *York,* xiii, 75, Joseph: All hayle! God be here-inne! *York,* xiv, 58, Mary: Hayle my fadir and hayle my sone! *Coventry,* xxiv, Nuncius: Alle heyl! Martha and Mawdelyn eke. *Coventry,* ii, Serpens: Heyl ffayr wyff and comely dame!

welcom(e), -cum. Meaning *welcome guest.* From OE. *wilcuma,* a combination of *willa,* will, and *cuma,* comer, an agent-noun from *cuman,* come.

Everyman: Welcome, my Good Deeds! now I hear thy voice. *York Plays,* xii, 201, Elizabeth: Welcome! mylde Marie. *York,* xiii, 89, Marie: Welcome! als God me spede. *Magnyfycence,* 920, Fansy: Nowe welcom, by the God holy! *Magn.,* 1516: Welcome, Pleasure, to our Magnyfycence. *Castell of Perseverance,* 588: Welcum, syr, semly in syth!

what che(e)re. Meaning *how are you?* ME. *chere* was adopted from Norman *chere,* face, which is from late Latin *cara,* face, countenance. Hence *chere* signifies disposition, mood, showing in conduct.

Assembly of Gods, 1471: What chere! howe lyketh the thys

syght? *York,* ix, 99, Noe: What now! what cheere? *Not-browne Mayd,* 45: Myne owne hart dere, with you what chere?

God saue you. This expression has lost its force as a blessing, and is, in ME., purely interjectional.

Morte Darthur, II, ch. 16: Balyn sayd God saue you.

XIII. *Dismissal*

1. Kindly Dismissal

Of the three interjections listed as indicating kindness in dismissal, two have come down to our own time. *Good-bye* does not occur, since this corrupted form has its origin in the sixteenth century.

As shown by the examples, expressions of kindly dismissal are much less numerous than those of angry dismissal. Of the latter, few are common in modern usage.

adieu, adew(e), adue. The exact equivalent, in meaning, of the English *good-bye.* Compare French *adieu.* From *à,* to, and *dieu,* God. Hence, "I commend you to God." Originally said to the person parted from, as *farewell* was said to the one leaving.

Everyman: Adieu! for I shall never see thee no more! *Everyman:* Adieu by Saint John! *Towneley Plays,* xii, 406, Pastor: Now, brethere, adew! *Not-browne Mayd,* 235: But nowe, adue! *Mankind,* 602: A-dew, fayer mastere! *Magnyfycence,* 967: Adue tyll sone. *Magn.,* 1850: Adue tyll to morowe. *Magn.,* 1874: Adewe, for I wyll not come in his clokys.

fare well, farewell. An expression of good wishes when friends part. Originally addressed to the one leaving, but, later, merely a formula at parting. Imperative of OE. *faran,* to go, combined with *well;* OE. *wel* is a cognate of *will,* in the sense of *agreeably to wish.*

Towneley Plays, xiii, 568: ffare well all thre. *Magnyfycence,* 967: Farewell, my frende. *Magn.,* 1850: Fare well tyll sone. *Mankind,* 155: Far well, jentyll Jaffrey! *Mankind,* 598: For

well, euerychon! *Castell of Perseverance,* 153: fare-wel, fayre frendys. *Castell of Per.,* 1000: Fare-wel in fere! *York Plays,* x, 227, Abraham: Farewell! my sone, I sall þe yelde. *Everyman:* Now farewell, and there an end!

Fare fall the, fayre thee befalle. Equivalent in meaning to *farewell* above.

Towneley Plays, xii, 189, Pastor: fare fall the! *Castell of Perseverance,* 729: how, Folye, fayre thee befall! *Castell of Per.,* 1795: heyl, syr Kynge! fayre þee befalle! (Here the expression denotes greeting.)

2. Angry Dismissal

avaunt. Meaning *begone! be off!* From French *avant,* before, forward, which is from Latin *ab ante,* from before. Originally and literally, *avaunt* means *move on! Onward!*

Digby Plays, i, 313, Watkyn: Avaunt, ye skowtys, I defye you euery-chone. *Mankind,* 629: A-vante, knawys! lett me go by!

avoyde. A fifteenth century form of *avoid.* Anglo-French *avoider.* OF. *esvuidier, e-vuidier,* to empty out. Hence, to banish.

Mankind, 64: A-voyde, goode brother!

forth. OE. *forth,* German *fort.* Old Teutonic *forth* from an older **frþo, *þrto* connected with *before* and *further.*

Mankind, 495: Forth! & espye were ye may do harme!

foule mot the falle, foule myght thou fare. In meaning, the exact opposites of *farewell* and *fare fall the,* above.

York Plays, xxx, 385: Miles: Flitte fourthe, foule myght þou fare! *York,* xxxii, 222, Pilate: Foule mot þe falle!

hens(e). Meaning *go away!* From ME. *hennes,* earlier *henne, hen,* an adverb with genitive suffix *-es, -s.* Original stem is **hi,* meaning this. Cf. *here,* used as a call for attention (XVI, 4) below.

Mankind, 380: Hens, thevys! ye haue made many a lesynge.

Magnyfycence, 1725: Hens, thou haynyarde! *York Plays,* xix, 120: Hense! tyte, but þou þe hye.

hee. Evidently a variant of the verb *hie,* to go, to begone! Cf. *hye, hy,* as a call of encouragement (XVI, 3).

Towneley Plays, xiii, 489, Uxor: So hee! *Mankind,* 373: Hye yow forth lyuely! for hens I wyll yow dryffe!

trus. Meaning *be off!* ME. *trussen, trushen,* to go, to be off, as one who has been sent packing. The primary meaning of *trussen* is to tie up, to pack.

Towneley Plays, xii, 202, Pastor: Trus! go we to mete.

vta. Meaning is obscure. Perhaps the word is connected with *vath.* Cf. *vath* expressing contempt, in VI above. It may be, however, a purely imitative sound. Or it may be a call for attention. See XVI, 4, below.

York Plays, xxxi, 234, Rex: Kyte oute yugilment, vta! oy! oy!

XIV. *Affirmation and Negation*

The list of interjections showing affirmation is remarkable for its length, while, on the other hand, one word, with its variants, indicates negation.

The number of expressions used to strengthen a declaration is noteworthy. In the fifteenth century, evidently, truth-telling was a virtue not always practised, and a simple statement was hardly to be credited. This condition, doubtless, gave rise to the still greater number of oaths and asseverations (see class XVII) originally used to urge the truth of an assertion.

Amen. Through Latin (or French) and Greek, from Hebrew *ā-mēn,* certainty, truth, which is from the verb *āman,* to strengthen, to confirm.

York Plays, xvii, 35, Primus Rex: Amen! so myght it bee. *Towneley,* xii, 189, Pastor: fare fall the!—Garcio: Amen! *Coventry,* viii: Amen, ffor charyte. *Mankind,* 303: Amen! for sent charyte, amen! *Mankind,* 718: Amen! (dicant omnes). *Coventry,* viii, Chorus: Amen. *Occleve, To the Blessed Virgin,*

the Mother of God, 140: And of my soule wasshe away the sore! Amen!

Ay, ey, [eh]. Meaning *yes.* For form [*eh*] see section I, above. *Nativity,* Herod: Eh! and that kerne of Bethlehem, he shall be dead. *Nativity,* Nuntius: Eh, sir, so they showed me. *Nativity,* Miles: Eh! brother, such tales may we not tell. *Nativity,* Prophet: Eh! trust it well. *Mankind,* 124: Ey, ey! yowur body ys full of Englysch Laten. *York Mystery Plays,* v, 71: Ay! goddis shalle ye be!

certes, sertis, certeynlye. Equivalent to *in truth, truly.* From OF. *certes,* or *à certes,* according to Littré. Latin *a certis,* meaning from certain (grounds), certainly.

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrschip, i-wys! *Morte Darthur,* xiv, ch. 1: Certes fayre neuew sayd she, your moder is dede. *Morte Darthur,* xvii, ch. xi: Certes, sayd Galahad, and ye blede soo moche ye maye dye. *Castell of Perseverance,* 296: Certis, I haue no more. *Castell of Pers.,* 339: & sertis thou schalt not wante! *Towneley Plays,* x, 299: Certys, I forthynk sore of hir dede.

in faythe, mafa(y). Cf. Fr. *foi, ma foi.* Compare modern Irish dialect, *faith!* In the next century we find *lewtie* (loyalty) used in the same way as *fay* in the fifteenth.

Magnyfycence, 663: In fayth, and Lybertyes rome is there but small. *Magn.,* 809: Nay, in good faythe; it is but the gyse. *Magn.,* 292: In fayth, Broder Largesse, you haue a mery mynde. *Magn.,* 2266: Ye, in faythe; or ellys thou arte to great a glotton. *Towneley Plays,* iv, 39: Ma fa! sone I hope he shall. *Towneley,* xxiii, 564: Ma-fay, I tell his lyfe is lorne. *Towneley,* xxiv, 245, Pilate: That appentys unto me, mafa! art thou mad? *Merlin,* 796: Now, mafey, thanne this goth amys!

forsothe, for suth. The modern use of this word is to express contempt. In ME. it kept its original value of *in truth.* It unites the preposition *for* and the noun *soth,* truth. Modern *forsooth.*

York Plays, xiii, 209: For suth, I am a mayden clene. *York Plays,* xvii, 85, Herod: Thre Kyngis, forsothe! *Magnyfycence,* 1257: But nowe, forsothe, man, it maketh no mater. *Magn.,* 1263: Forsothe, tell on; hast thou any mo? *Magn.,* 2418: Nowe welcome, forsothe, Sad Cyrcumspeccyon. *Castell of Perseverance,* 327: Ya, forsoth, and that is wel sene. *Towneley Plays,* xiii, 750: ffor sothe, all redy. *Not-browne Mayd,* 151: Forsoth, I trowe, ye and your bowe.

in dede. Modern *indeed.* OE. *dǣd,* related to OE. *dōn,* to do.

Magnyfycence, 36: In dede, Syr, that Lyberte was not worth a cue. *Magn.,* 374: And in dede, Syr, I here men talke. *Magn.,* 594, Fansy: No, in dede. *Magn.,* 1696: Nay, indede, but I sawe howe ye prayed. *Everyman:* Yea, indeed, I have it here.

I say, I vowe. Intensive or emphatic. In nature akin to *in dede, in truth, for sothe,* and *I trowe.*

Coventry Plays, xii: Go chere hyre therefore, I say. *Towneley,* ii, 32: I say, donnyng, go fare! *Towneley,* ii, 41: Say, mall and stott, will ye not go? *Magnyfycence,* 306: Gete you hens, I say, by my counsell. *Magn.,* 1167: Wotyst thou, I say, to whom thou spekys? *Magn.,* 2239: Ye be the theuys, I say, away my goodys dyd cary. *Castell of Perseverance,* 2249: War! syr Glotoun shal makyn a smeke ageyns this castel, I vowe.

I trow(e). ME. *trowen,* OE. *trūwian* or *trēowan,* to trust, believe, connected with the noun *trēow,* trust.

Occleve, Jereslaus's Wife, 114: And robbid ryche folk, ye woot, I trowe. *Magnyfycence,* 348: I trowe, by our lady, I had ben slayne. *Magn.,* 808: Cockes harte! I trowe thou wylt make a fray. *Mankind,* 98: I trow, of ws thre I herde you speke. *Magn.,* 2448: A ha! Fansy and Foly met with you, I trowe. *Not-browne Mayd,* 151: Forsoth, I trowe, ye and your bowe.

God wote, I wote. The third singular, *wāt,* of OE. *witan,* know, became *wot* in ME. by regular development.

Magnyfycence, 247: Ye coulde not ellys, I wote, with me endure. *Magn.,* 248: No, God wote, it were great payne.

i-wys. Meaning *certainly.* Revived in modern usage, together with *eftsoons* and words of like nature. The modern form *I wis* is due to misconception. The prefix *i-* is not a pronoun, but a weakening of *ge-,* the old sign of the perfect participle. Compare German *gewiss.* The form *wis* or *wys* is from OE. *witan,* know. Cf. *wote,* above. Hence *i-wys* originally meant *known.*

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrschip, i-wys! *Magnyfycence,* 1176: Nay, iwys, fole; it is a doteryll. *Castell of Perseverance,* 201: I-wys, fro Carlylle In- to Kent, my carpynge þei take. *Coventry,* xii: That she is with i-wys. *Nativity:* For the breathing of these beasts hath warmed well, i-wis.

pard(i)e, perde. Literally, an oath, *per Dieu.* Cf. French *dieu,* God.

Not-browne Mayd, 187: That where ye be, me semeth, parde. *Towneley Plays,* xiii, 426: Perde. *Occleve, To the Blessed Virgin, the Mother of God,* 87: By thee the world restored is pardee. *Magnyfycence,* 1308: Yes, perde, man, whether that ye ryde or go. *Magn.,* 1755: Yet somtyme, parde, I must vse Largesse. *York,* xv, 45: Me falles for to haue parte, parde! *Everyman:* Ye promised me otherwise, pardie!

sikerle, sekerlye. Meaning *certainly.* In Scotch dialectal usage, *sickerly.* OE. *sicor, siker,* from Latin, *securus,* without care. *Secure* and *sure* are doublets of *sicker.*

York Plays, xxxviii, 303, Miles: Sekirlie, I telle vs schente. *York,* xiii, 63: But is nought sho, sekirly. *Merlin,* 836: No, so me good helpe, Sire, Sikerle! *Guy of Warwick,* 6998: I yow sey, sekerlye. *Coventry,* xii: Sekyr, sere, beth nowth dysmayde. *Battle of Agincourt:* And the Earl of Devonshire, sikerly!

verily. Meaning *truly, certainly.* From OF. *verai* (Fr. *vrai,* true), combined with ME. ending *-ly.* Connected with Latin

verācem. Hence *verily* is a hybrid, composed of a Latin root and a vernacular suffix.

Everyman: Nay, verily! *Everyman:* Verily, Fellowship, gramercy! *Everyman:* Trust me, verily.

ye, ya, yaa, yee, yea, yha, yhe, yis, yys, yey, yes. All ME. forms of modern *yes.*

Mankind, 85: Yys, Mary, I prey yow. *Wisdom,* 712: Ya! wo ys hym xall hem offende? *Magnyfycence,* 506: Yes, yes, by lakyn, I shall the warent. *Magnyfycence,* 609: Ye, for your wyt is cloked for the rayne. *York Plays,* xi, 231: Yaa! sir, he saide þou suld despise. *Digby Plays, Burial of Christ,* 186: Yee, yee, Josephe! of hir he had grete compassion. *Towneley,* xii, 135: yey, bot tell me, good, where ar youre shepe, lo? *London Lyckpenny:* Yea, by Cock. *Coventry,* xxx, stage direction: Et clamabant omnes: "yys! yys! yys! alle we seye he is worthy to dey, ya! ya! ya!" *York,* v, 41, Satan: Yha, Eue, to me take tente. *York,* v, 75, Satan: Yhe! why trowes þou noyte me? *York,* xxviii, 299: Whe! yis, felawes, be my faith he is fast.

yowe. In meaning, perhaps equivalent to *ya* and its variants, above.

York Plays, xxx, 295, Cayphas: Yowe! that schalke shuld not shamely be shente.

nay, na, no. *Nay* is a loan-word from ON. *nei,* no, not, which is composed of the negative particle and *ei,* ever (compare Gothic *aiw*). Hence *nay* is, literally, not ever. The ME. *no* has been noted but rarely in exclamations.

Towneley Plays, iv, 128: Shuld I that ganstand! We, nay, ma fay! *Towneley Plays,* ii, 93, Caym: Nay! thou fyndys me not so mad! *Towneley Plays,* ii, 314, Caym: We! na! I aght the a fowll dispyte. *Coventry,* xii, Joseph: Nay! nay! yet it God fforbede. *London Lyckpenny:* Nay, by Cock. *Siege of Harfleur:* Nay, said the captain, by God and by St. Denis! *Wisdom,* 853: Nay! I kan bettur hym qwytte. *Mankind,* 118: Be-tray! nay, nay, ser! nay, nay! *Castell of Perseverance,* 1718: Nay! be Belyals bryth bonys. *York,* xi, 338, Rex: No!

devill! will itt no bettir be? *York,* xi, 325, Rex: No, devill! and sitte they so in pees?

XV. *Doubt, Disapproval*

The form listed as expressing doubt or disapproval is one very common in modern usage, although its variant, *ahem,* occurs more frequently.

hem. Originally a vocalized representation of the sound made in clearing the throat with a slight effort. Used to attract attention, or to express doubt or hesitation.

Magnyfycence, 664: Hem! that lyke I nothynge at all. *Magn.,* 211: Hem, Syr, yet beware of "Had I wyste!"

XVI. *Various Calls*

1. Calls for Help

Middle English literature is rich in cries and calls of all kinds. As is to be expected, these are most common in the dramatic literature, and are ascribed most frequently to rustics, as the shepherds, Cain, Esau, and others of the less dignified characters. Some of the most unusual of these expressions are found in modern dialect speech.

harrowe, herrowe, harow, haro(o), harro, harowe. (The form *haroye* is found in the Chester Plays.) Meaning is *help!* Cf. French *haro.* Origin uncertain. It may be merely an imitative sound. Adopted from OF. *haro, haron, harol,* of obscure origin. Obsolete in English since the beginning of the seventeenth century. As early as the fourteenth century, the popular idea was that this expression was a call upon Rau, Rollo, or Raoul, who led the Northmen to France. But this (cf. *Oxford Dictionary*) is inconsistent with the form of the word. Littré says: "Diez condemns the *ha Raoul* theory. He suggests the OHG. *hera* or *hara,* Old Saxon *herod,* which meant *here.*" This accords with the meaning, which is, *come here! come to my help!*

Gavin Douglas, King Hart: Quhat was þeir mair, but

"harro! taik and slay!" *Magnyfycence,* 2324: Out harowe! hyll burneth! where shall I me hyde? *York Plays,* i, 97, Lucifer: Owte owte! harrowe! helples, slyke hote at es here. *Towneley,* ii, 275, Caym: We! out! haro! help to blaw! *Nativity:* Out! villain wretches, haro upon you I cry. *York Plays,* ix, 99: Uxor: We owte! herrowe! *York,* xi, 403, Rex: Owte! ay herrowe! devill, I drowne! *Towneley,* ix, 74: Imperator: Out, harow, full wo is me! *Towneley,* xiii, 438, Mak: Bot I may cry out "haroo!"

help(e). Imperative of verb help, OE. *helpan.*

York Plays, i, 94, Lucifer: Helpe! felawes, in faythe I am fallende. *York,* ix, 101, Noe: Helpe! my sonnes to holde her here. *Digby Plays, Mary Magdalene,* 265: A! help! help! I stond in drede. *Mankind,* 106: Lady, helpe! *Castell of Perseverance,* 2556: A, swete ladys, helpe! *Everyman:* O Jesus, help! all hath forsaken me!

2. Calls to Stop

abyde. OE. *abīdan,* to remain, to wait. Scotch *bide.*

Mankind, 424: Abyde! to sone I xall yt se. *Towneley Plays,* xxv, 229: how! thou belamy, abyde!

halde on. OE. *healdan, haldan,* restrain, keep. Anglian form *haldan* stayed in North, but in Midland and hence in standard English, the verb became *hold.* See *beholde* as a call for attention (XVI, 4). *Halde on* means *stop! wait! hold on!*

York Plays, xv, 63, Pastor: Yf ye will helpe, halde on! (Here equivalent to "Stay! it was thus!") *Mankind,* 672: Holde, master Myscheff! & rede this!

have do. Meaning *cease! have done! do* is the participial form of OE. *dōn,* with loss of the *n.*

Coventry Plays, xvi, Pastor: Have do! this songe begynne. *Castell of Perseverance,* 2238: haue do, my chyldryn! now haue do! *Castell of Pers.,* 1878: Haue do þanne! the deuyl þee tere! *Towneley Plays,* xiii, 663: hold youre tonges; haue done!

wemo. Compare this form used to show surprise, in I; irritation, in IV; contempt, in VI.

Towneley Plays, vi, 132, Esaw: Wemo! felows, hold youre heid.

3. Calls of Encouragement

come of. In the sense of *come on.* OE. *cuman,* come, has imperative *cum, cym.* In ME. the spelling changed from *u* to *o.* Compare the modern slang phrase *come off!* equivalent to "Stop what you are doing and do what I wish."

Morte Darthur, xx, ch. 4: Come of thenne, sayd they alle, and do hit. *York Plays,* xxix, 153, Malcus: Come of, do tyte! (quickly).

doo. Meaning is obscure. Apparently an interjection in the example quoted. However, it may be elliptical for *do say!*

York Plays, xxviii, 266: Doo, whame seke ye all same?

hy(e). Means *to make haste.* Compare *hee* expressing angry dismissal (XIII, 2). Cf. also, modern *hie.*

York Plays, xxviii, 181, Cayphas: Sir knyghtis, in hy! The same expression is used adverbially, as follows: *York,* xxviii, 187, Miles: Go we hens þan in hy.

let see(n). Equivalent to *come on! let us see!* Found in Occleve, *The Court of Good Company,* 64: Ensaumpleth vs let seen & vs miroure. *York Plays,* xxviii, 158: Late se sir, I pray you. *York,* xv, 63: If ye will helpe, halde on! late see, for þus it was.

do tyte. Meaning *hasten! tyte,* in the Yorkshire dialect, and others, means *soon, readily, quickly.* See Wright, *English Dialect Dictionary.*

York Plays, xxix, 153, Malcus: Come of, do tyte! *Mankind,* 152: Felouse, go we hens tyght!

4. Calls for Attention

awake. From OE. *wacan,* to wake, with intensive prefix *a-.*

Towneley Plays, xii, 296, Angelus: herkyn, hyrdes, awake!

behold(e). OE. *bihalden* and modern German *behalten* are cognate. The application of the word to watching is, among modern languages, confined to the English. But Gothic records *halden* only in the meaning *watch over, guard, herd cattle.* Hence *beholde* is equivalent to the phrase, *hold in observation.*

Occleve, *To the Blessed Virgin, the Mother of God,* 126: Beholde! *Digby Plays, Conversion of Saint Paul,* 412: Ho, ho, be-holde me, the mygte prince of the partes infernall.

ey. Compare other uses in sections I and XIV. Here *ey* is equivalent to *ho!* or *hail!*

Mankind, 337: Ey, Mankynde, Gode spede yow with yowur spade! *Castell of Perseverance,* 2367: Ey, for Beyalys bonys, þe kynge, where-a-bowte stonde ye al day?

hark, herke, herkyn. As in modern use. The imperative form. ME. *hercnen, hercnian,* from OE. *heorcnian, hercnian* gives *hearken,* from the source of Eng. *hark.* German *horchen.*

Mankind, 479: Herke now! I say þou hast many a peny? *York Plays,* xv, 37: Herkyn to me! *York,* xxix, 132: Herke! Knyghtis. *Nativity:* Hark, Sim, hark! I hear our brother on the lo. *Towneley,* xii, 264: Bot hark! who so can best syng. *Magnyfycence,* 1110: Ha, ha, ha! herke, Syrs, harke! *Towneley,* xii, 296, Angelus: herkyn, hyrdes, awake! *Nativity:* Hark! they sing above in the clouds clear. *York,* xxix, 276: Herke! Jesus of Jewes will haue joie.

hay. Cf. *hay* expressing merriment, in X above. In modern usage, commonly spelled *hey!* Scotch *(h)oi!*

Magnyfycence, 303: Go shake the, dogge, hay! *Mankind,* 713: Hay, doog! hay, whoppe! whoo! *Magn.,* 1118: Hay, chysshe! come hyder!

hem. See *hem* expressing doubt or disapproval, in XV above.

Magnyfycence, 779: Hem, Colusyon! *Magn.,* 1198: Hem, Fansy! regardes, voyes vous.

hò(o). Cf. *ho* used in anger, IV above.

The Nativity: What ho! fellows! ho! ho! ho! *London Lyckpenny:* And one cryed "Hoo! go we hence!"

how(e). In meaning, equivalent to *ho* above. See also *how* expressing astonishment, in I.

Towneley Plays, xii, 83: gyb, I say, how! *Towneley Plays,* xxv, 229, Satan: how! thou belamy, abyde! *York,* xxviii, 292: Howe! felawes, drawe nere. *Coventry,* vi, Deus: Moyses, how! Moyses, Herke to me. Henryson, *The Paddock and the Mous:* How, Juppiter! of nature god and king. *Castell of Perseverance,* 579: How, lord! loke owt! *Mankind,* 725: What, how! ostler, hostler! lende ws a foot-ball! *Castell of Per.,* 1727: Howe! Flypyrgebet! Bakbytere!

lew. The meaning is uncertain. It is perhaps a variant of *lo! loo!* This is in accord with its use in the example cited.

Towneley Plays, iii, 507, Uxor: Hence bot a litill she commys, lew, lew!

lo(o), lok(e), loke out. *Lo* and *loo* are probably shortened forms of ME. *loke,* OE. imperative *loca,* from *locian.* Very frequent in ME.

Occleve, *Letter of Cupid,* 445: Lok! and ye shal so fynde yt hardely. *Castell of Perseverance,* 579: How, lord! loke owt! *Merlin,* 1573: lo, quod Merlyne, a custoume it Js. *Mankind,* 138: Lo, mastur! lo! here ys a pardon bely mett. *Towneley Plays,* ii, 34, Caym: lo! now hard she what I saide. *York,* x, 225, Abraham: But loo! her sall no force be felde. *Morte Darthur,* vii, ch. 11: Lo, said the damoysel, yonder is a lord that oweth yonder cyte. *Kingis Quair,* 49 (amended text): lo! suich delyte. Occleve, *Letter of Cupid,* 453: But oonly, loo for this entencion. *Everyman:* Lo! Fellowship forsaketh me. *Not-browne Mayd,* 201: Loo! myn herte swete. *Not-browne Mayd,* 217: Loo yet before ye must doo more. *York,* xxviii, 256: Be-holdis all hedirward, loo!

oyas, oy. Meaning *hear ye!* OF. *oiez, oyez,* imperative plural of *oir,* hear, from Latin *audicātis.* Identified, through misconception, with the two words *O yes* and often so written. See the *Oxford Dictionary.* As shown by the examples, *oyez* or *oyas* was the call of a court officer to win attention to an announcement.

York Plays, xxx, 360, Beadle: Oyas! oyas! *York,* xxxi, 239, Rex: oy! man, arte þou woode? *York,* xxxi, 319: Do crie we all on hym at onys: Oyes! oyes! oyes! *Towneley,* ii, 416, Caym: And cry oyes, oyes, oy! *Coventry,* x, Nuncius: Oy! al maner men takyth to me tent. *Mankind,* 659: Oy-yt! Oy-yyt! Oyet!

se. OE. imperative *seoh,* from *sēon,* to see.

Magnyfycence, 572: Cockes woundes! se, Syrs, se, se!

whe. Equivalent to *ho* above. In etymology, apparently connected with *we,* section I above.

York Plays, xxviii, 250: Whe! stand, traytoure, I telle þe. *York,* xxviii, 251, Cayphas: Whe! do, knyghtis, go falle on be-fore. *York,* xxviii, 299: Whe! yis, felawes, be my faith he is fast!

what. For etymology see *what* expressing surprise, in I above.

York Plays, xv, 44: Say, felowes, what! *Magnyfycence,* 396: What! I say, herke a worde. *Mankind,* 719: What, how, Mankynde! fle þat felyschyppe, I yow prey! *Magnyfycence,* 325: What, Fansy! Fansy!

here. OE. *hēr.* Evidently connected with the pronominal stem **hi* (*this*), which also yields *hither* and *hence.* The development is not clear.

Mankind, 425: Here, here! se my hede, goode master!

who(o), whop(p)e, whow, anow. Apparently, natural ejaculations to attract attention.

Mankind, 600: Whope! who! Mercy hath brokyn hys nekekycher a-vows. *Mankind,* 713: Hay, doog! hay, whoppe! whoo! go yowur wey lyghtly! *Mankind,* 726: Whoppe, whow! a-now, a-now, a-now, a-now!

5. Calls of Warning

alarum. Meaning *to arms!* Composed of *à, l',* and *arme.* The first examples are found about the commencement of the fourteenth century. Note Italian *all'arme,* a signal to announce the approach of the enemy.

Magnyfycence, 2323: Alarum, alarum! to longe we abyde!

asarme, as armys. Means *to arms!* Formerly OF. *as armes!* at arms.

Castell of Perseverance, 2070: As armys, Mekenes! *Castell of P.,* 1970: "asarmys," as an heyward. *York Plays,* xix, 276: Asarme! euere ilke man.

wa(a)r, be ware. Meaning *look out!* OE. *war,* wary. Still used interjectionally in dialect speech of England and Scotland. See *English Dialect Dictionary.*

Towneley, ii, 25: Io furth, greyn-horne! and war oute, gryme! *Towneley,* xxiv, 73: War, war! for now com I. *Castell of Perseverance,* 2236: War, war! late mans flesche go to! *Castell of P.,* 2249: War! syr Glotoun schal makyn a smeke a-geyns þis castel, I vowe. *Mankind,* 109: Be ware! ye, may son lyke a bofett. *Mankind,* 166: Be ware þereof! yt ys wers than ony felony or treson. *Towneley,* xxiv, 113: War, war! and make rowme. Occleve, *La Male Regle de T. Hoccleue,* 244: Lordes! beeth waar! Occleve, *La Male Regle,* 351: Be waar, Hoccleue!

6. Calls for Silence

Pe(e)s, pesse, peace, peas(s)e. In ME. a verb meaning *be silent, stop.* From the ME. noun *pees, pais,* OF. *pais, paiz,* Fr. *paix,* Latin *pax, pacis.* Cf. *appease.*

York Plays, xvii, 74: Pees! dastard, in þe deueles dispite. *York Plays,* xxviii, 275: Pees! Petir, I bidde þe. *Magnyfycence,* 998: Pease, man, pease! *Mankind,* 420: Pesse fayer babys! *Castell of Perseverance,* 340: Pes, aungel! þi wordis are not wyse! *Everyman:* Peace! I am deaf! I look not behind me! *Towneley Plays,* ii, 400: Peasse, man, for godis payn! *Towneley Plays,* xiii, 460: Peasse, man, be still!

qwyst. Identical with modern colloquial *whist!* be silent. An imitative form.

Mankind, 586: qwyst! pesse! þe Deull ys dede! *Mankind,* 550: qwyst! pesse! I xall go to hys ere.

7. Calls to Animals

hyte. A word of encouragement to urge a horse forward.

Towneley Plays, II, 55: harrer, morall, iofurth, hyte!

stow(e). A call for hawks. In modern use as an interjection in the Shetland and Orkney Islands, with meaning of *hush! silence!* See *English Dialect Dictionary.*

Magnyfycence, 912: Fansy, craynge: Stow, stow! *Magn.,* 968, Fansy: Stowe, byrde, stowe, stowe!

teuyt. Meaning is obscure. Like *stow* above, it may be a call to a hawk.

Magnyfycence, 1005, Fansy: Teuyt, teuyt!

tyr. A call to sheep, meaning *skip! go on!* Apparently opposite in meaning to *whyr,* below.

Towneley Plays, xii, 114, Pastor: I say, tyr, now agayne! *Towneley,* xii, 113: I say, tyr!

war. A hunter's call.

Towneley Plays, ii, 29, Caym: War! let me se how down will draw.

whop. A call to sheep. Its apparent meaning is *go on!* for the first shepherd is always urging them, as opposed to the second shepherd. The word is found in the Yorkshire dialect in the sense of *to hurry, to pass by swiftly.* See the *English Dialect Dictionary.*

Towneley Plays, xii, 19, Primus Pastor: Whop!

whyr. A call to sheep, meaning, evidently *stop! be quiet!* as opposed to *whop* above.

Towneley Plays, xii, 117, Secundus Pastor: Tup, I say, whyr!

XVII. *Oaths*

The following oaths are merely listed, with citations of their occurrence. No attempt is made to give examples in full, with the connection, since there is little danger of ambiguity. The general classification is in part based on that suggested by W. L. Ramsay in his edition of the *Magnyfycence* (E. E. T. S., extr. ser. 98, p. 83).

1. By the divine name, parts, or attributes.

Lorde, *Magnyfycence,* 1875. **Lorde God,** *Magn.,* 2047; *Assembly of Gods,* 1930. **(Lord) Jhesu,** *Morte Darthur,* iv, ch. 21; vii, ch. ii, iv, ch. 23; *Magn.,* 318, 324. **My God,** *Coventry Plays,* xiii. **By God of heuen,** *Magn.,* 1080. **Verray God,** Three *Kings' Sons,* p. 8, l. 18. **By heuen kyng,** *Wright's Chaste Wife,* 439. **Be Cryste; by Cryste,** *Guy of Warwick,* 7959; *Magn.,* 922; *Mankind,* 559. **By ihesus,** *Towneley,* xii, 308. **By God,** *Magn.,* 341; 754; 289; 346. **By the goode Lorde,** *Magn.,* 1253; *Magn.,* 1732. **By the God holy,** *Magn.,* 920. **By Jesse** (Jesu?), *Magn.,* 975. **By Jesu that slayne was with Jewes,** *Magn.,* 2167. **By Hym that crosse kyst,** *Magn.,* 1416. **By Hym that hell did harrowe,** *Magn.,* 1561. **By the holy trinitye,** *Mankind,* 370. **By God and St. Denis,** *Siege of Harfleur.* **Goddys sake,** *Pilgrimage of the Life of Man,* 839; *Magn.,* 2251; *Coventry,* xiii. **In Goddys name,** *Magn.,* 2397; *Mankind,* 68; *Coventry,* xiii. **God's grace,** *Harfleur.* **Goddis loue,** *Castell of Perseverance,* 1442. **Gody's myght,** *Wright's Chaste Wife,* 326. **Godes pyne,** *Wright's Chaste Wife,* 461. **By hym that all wrought,** *Wisdom,* 771. **By hym that me dere boght,** *Towneley,* ii, 461. **Be Jhesu Cryst that me dere bowt,** *Mankind,* 116. **For Goddes brede** (bread), *Magn.,* 1728. **For the passyon of God,** *Magn.,* 2276. **By Goddes sacrament,** *Magn.,* 943. **By Goddes cope,** *Magn.,* 1116. **By Goddys body,** *Magn.,* 948; 399; *Castell of Per.,* 2923. **By Cokkes body** (*Cokke* and *Cocke* are corruptions of the name of God), *Mankind,* 605; *Magn.,* 682. **By Cocke,** *London Lyckpenny.* **By Cockes bones,** *Magn.,* 801, 961. **By Goddes fote,** *Magn.,* 768; 2216. **Bi Godis sydis** (sides), *Towneley,* ii, 458. **Goddis sande** (hand), *York Plays,* xiii, 218. (This is an interesting case of attraction of one letter of a word to the next word. Cf. *Sent Tanne,* in XVII, 2.) **By gottys dere nalys** (meaning the nails in the cross), *Towneley,* xvi, 116. **Goddys blod,** *Castell of Per.,* 880. **For Cristis blod,** *Castell of Per.,* 403. **Cockys harte,** *Magn.,* 512; 576; 574; 596; 685; 783. **Cockes wounds** (modern *zounds!*), *Magn.,* 572; 1619. **Cockes armes,** *Magn.,* 782; 573; 1615. **His armes,** *Towneley,* xxiv, 324. **By the**

harte of God, *Magn.,* 1157. **Be Goddis yne** (eyes), *Magn.,* 1109. **Crystes cross,** *Towneley,* xiii, 118; *Mankind,* 435. **Crystys curs,** *Mankind,* 99; *Towneley,* xiii, 147. **Dewes** (probably a corruption of the name of God), *York,* i, 92. **Dogg, Dogges** (probably a mutilation of the name of God), *York,* xvii, 121; xi, 240; xix, 106. *Magn.,* 303. **Cryst it blysse,** *Magn.,* 974. **God it forfende,** Magn., 1115. **God forbede,** *Magn.,* 246; *Coventry,* xii. **God wote,** *Magn.,* 248; *Mankind,* 778; *Castell of Per.* **So me good** (God) **helpe,** *Merlin,* 836. **So helpe me God,** *Magn.,* 1259; 1653; 1733; *Mankind,* 227. **So God haue mercy on me,** *Merlin,* 791. **So (Als) God (the) spede,** *Wright's Chaste Wife,* 537; 546; *Magn.,* 379; *York,* xiii, 89. **I make (give) (God) a-vowe,** *Mankind,* 494; 617; *Castell of Per.,* 880; *Wisdom,* 893; *Towneley,* xii, 84; *Magn.,* 529; 1827. **To God I make an othe,** *Magn.,* 145. **To (For) God avowe,** *Magn.,* 1817. **So god me rede,** *Guy of Warwick,* 3252.

2. By the saints

Sent Powle, *Wisdom,* 487; 907. **Be Sent Quisyntyne,** *Mankind,* 264. (This may be the source of the sixteenth century *Gis,* but *Gis* may be a variant form of *Jesus.*) **Sent Dauy,** *Mankind,* 802. **By Saint John,** *Siege of Harfleur; Everyman.* **Sanct Iohne** (John) **to borrowe,** *Kingis Quair,* stanza 23. **By Saint Anne,** *Everyman.* **Sent Tanne** (St. Anne), *Mankind,* 75. (This is a case of attraction. Cf. *Goddis sande,* under *oaths,* above.) **Be sanct bryd,** *The Murning Maiden.* **Sant nycholas,** *Towneley Plays,* xiii, 118. **Saynt Sym,** *Magnyfycence,* 585. **Sant thomas of Kent,** *Towneley,* xiii, 458. **Seynt Mychell,** *Guy of Warwick,* 7074. **For seynt Charyte,** *Guy of Warwick,* 7153; *Mankind,* 205, 303. **By God and by St. Denis,** *Harfleur.* **Sent Deny** (a variant of *St. Denis*), *Mankind,* 480. **By our Lady,** *Everyman; Magn.,* 348; *Mankind,* 429. **By (our) lakyn,** *Magn.,* 338; 1806; 506. **By saynt Mary,** *Magn.,* 821, 2212. **Marry, Mary,** *Everyman; Magn.,* 24; 652; 656; *Towneley,* iii, 226; *Mankind,* 85. **By Mary full of myght,** *Wright's Chaste Wife,* 468. **Bi mary,** *Towneley,* iii, 209. **In Marye name,** *Kingis Quair,* st. 17.

That Mary mott the spede, *Wright's Chaste Wife,* 501. **By the holy Mary,** *Mankind,* 628. **Sant Iame** (James?), *Towneley,* xiii, 380.

3. By the devil

Be Satan, *Castell of Perseverance,* 552. **By appolyn, Apolin** (the destroyer), *Towneley Plays,* xxiii, 533; *Guy of Warwick* 3635. **Devill, dewyls,** *York Plays,* xi, 37; 403; *Towneley,* vii, 326; ix, 73; ix, 76. **What (the) dyvell,** *York,* xi, 47; *Castell of Per.,* 2944; *Magnyfycence,* 627; 496; 795; 796; 791; 793; *York,* xi, 325; xi, 338. **In the deuelway,** *York,* xxxvii, 133. **A deuell way,** *Mankind* 153. **Where the deuyll,** *Magn.,* 1128. **Deuell me thynketh,** *York,* vii, 60. **What the deuyll of hell,** *Magn.,* 1745. **What the deuyll ayleth you,** *Magn.,* 636. **In the dyuyls date,** *Magn.,* 944; 2072. **The deuyll spede whyt,** *Magn.,* 1007. **As the deuyll wolde,** *Magn.,* 941. **For the armys of the dyce,** *Magn.,* 781. (If *dyce* is connected with *dewes,* as seems probable, this should be listed under 1,—oaths by the divine name.) **By Belyalays bonys,** *Castell of Per.,* 1823; 1799; 2187. **In the deueles dispite,** *York,* xvii, 74.

4. Miscellaneous

By Mahoune's blode, *Towneley Plays,* xx, 157. **By mahowne in heuen,** *Towneley,* xvi, 127. **Be glorious Mahounde, my soverign Savyour,** *Coventry Plays,* xxix. **Jupiter** (used in a whimsical sense), Henryson's *The Paddok and the Mous.* **By my syer's soule,** *Magnyfycence,* 1088. **By the masse,** *Magn.,* 764; 533; 513. **By the rode** (rood), *Magn.,* 1197; 1140; 1870; *Towneley,* xiii, 182. **By the rode of Woodstocke Parke,** *Magn.,* 1210. **By the armes of Calys** (Calais), *Magn.,* 675. **By the harte that Gode me gave,** *Magn.,* 1782. **By my hede** (head), *Morte Darthur,* iv, ch. 5. **On my lyf,** *Morte Darthur,* vi, ch. 3. **Bi this day,** *Towneley,* xxiii, 186. **Ffor charyte,** *Coventry,* viii. **Pur charyte,** *Guy of Warwick,* 7204. **A very vengeaunce,** *Magn.,* 2105; 2198. **In the mare's name,** *Magn.,* 1391. **By my trouthe,** *Magn.,* 812; 343; 363; 537.

Be my feith, *York,* xxix, 229. **By the faythe that I owe to God,** *Magn.,* 2209. **By your soth,** *Magn.,* 350.

XVIII. *Maledictions*

Expressions of malediction are more numerous than those of blessing (see division XIX). As stated in the introduction, both classes are of the interjectional type, having lost their earlier force.

God geue the care, *Wright's Chaste Wife,* 463; *Mankind,* 615. **Gog gif the sorow,** *Towneley Plays,* ii, 44 (*Gog* is a mutilation of the name of *God*). **Foule mot the falle,** *York Plays,* xxxii, 222. **Foule (or Evil) myght thow fare,** *York,* xxx, 385; *Castell of Perseverance,* 1817. **The devyll (the) speyd,** *York,* vii, 77; xi, 332; xix, 106. **The devyll might speyd both him & the,** *York,* vii, 95. **The devyll the drowne,** *York,* xi, 240. **To the devell of helle,** *York,* xi, 67. **The deuyll motte you drawe,** *York,* xxx, 431. **Nowe to the deuyll I the betake,** *Magnyfycence,* 401. **Ille joie hym wring,** *York,* xxxvi, 76. **Ill happe on thy hede,** *York,* xxix, 307. **Woo worthe the,** *York,* v, 107; v, 150; *Magn.,* 2103. **I pray God gyue you confusyon,** *Magn.,* 597. **God sende the brayne** (*brain,* caution), *Magn.,* 608. (Here used teasingly.) **Our Lord send you a very vengeaunce,** *Magn.,* 2237. **God gyue a very myschaunce!** *Magn.,* 497. **God gyve him a myscheffe,** *Magn.,* 1730. **The devyl thee tere,** *Castell of Per.,* 1878. **Evil mote he preve,** Occleve, *Letter of Cupid,* 55. **I beschrewe ye all,** *Mankind,* 80. **Gode gyff hym ewyll grace,** *Mankind,* 606.

XIX. *Interjections expressing Invocation, Blessing*

Gode let (hinder?) **hym neuer then,** *Mankind,* 297. **Jhesu,** *Morte Darthur,* i, ch. 15. **God his soule quyte,** *De Regimine Principum,* 2077. **God be our spede,** *Towneley Plays,* xii, 295. **God saue yow,** *Morte Darthur,* i, ch. 16. **Cryst be amonge you and the Holy Goste,** *Magn.,* 2385. **Now Cryst it blysse,** *Magn.,* 974. **Jhesus preserve you,** *Magn.,* 1796; 2567. **Blessyd be our Lorde,** *Magn.,* 1584. **Blessyd may ye be,** *Magn.,* 2327. **Blyssyde be Ihesu,** *Mankind,* 304.

XX. *Exclamations Purely Imitative*

Other imitative exclamations, as *fie, qwist,* and calls to animals have been listed under different headings. Those found in this division are rare, and examples are, therefore, few.

lully, lullay. *English Carols:* lully, lullay, thou little tiny child. By by, lully, lullay.

terli, terlow. *Eng. Carols:* They sang terli, terlow.

hey, huffa, troly loly. *Songs of Conviviality:* Hey, troly, loly. Huffa, galand. *Magnyfycence,* 1251: He dawnsys so long, hey troly loly.

Puf. *Towneley,* ii, 277, Caym: Puf! this smoke does me mych shame. (Cain is choked with smoke.)

XXI. *Expletives with Vocative, and Other Expressions Interjectional in Form, but Lacking in Force*

With one exception the forms listed in this class are still in use with the vocative, or as introductory expletives.

a. *Morte Darthur,* iv, ch. 1: A, sayd the Kynge, syn ye knowe of your aduenture, peruey for hit. *Morte Darthur,* vii, ch. 11: A, foole, said she, thou were better flee by tymes. *Morte Darthur,* vii, ch. 13: A a sayd persaunt, that is the knyght's of the reed launde. *Blanchardyn and Eglantine,* ch. 23: A, madame, saide blanchardyne, pardoune me. *Blanchardyne and Eglantine,* ch. 23: Aa, gentyl knight, forced I am at this houre present. *Castell of Perseverance,* 870: A, Auaryce! wel thou spede! *Castell of Per.,* 1164: A, Glotony! wel I þee grete!

adonay. Meaning *Lord,* from Hebrew *adonai,* a plural form. Represented in the authorized version by the word *Lord* in ordinary type. *Adonay* is sometimes of a more forceful nature than is indicated by the example cited below. This is shown by a passage from the *Chester Plays,* xxxv, 273, where Balaack says indignantly: Thou preachest as a pie, adonay!

Towneley Plays, xvii, 8, Symeon: Now help, lord, adonay!

haa, ha ha. In a purely vocative use, equivalent to *ah!*

Eneydos, ch. 54: haa, goode kynge! *Eneydos,* ch. 57: Ha, ha, valyaunte bacheler.

Ow(e), Oo, O. A mild interjection here, equivalent in force to modern *ah.*

Assembly of Gods, 1930: Oo, Lord God! seyde Doctrine, canst thow not? *Mankind,* 816: O Mankend, . . . þis is a lamentabyll excuse. *Mankind,* 818: O, blyssed Ihesu, help thou this synful synner to redeme! *Castell of Perseverance,* 830: Ow, Mankynde! blyssyd mote þou be! *Castell of Per.,* 1224: Owe, Slawthe, thou seyst me skylle!

so. Apparently used as modern *so,* to express a mild sympathy. In the example quoted, the use is rather jesting.

Magnyfycence, 2071: A, so! that syghe was farre fet!

well. Merely an introductory expletive. OE. *wel* is cognate with *will* in the sense of *agreeably to wish.* Cf. *farewell!* in XIII, 1.

Morte Darthur, xx, ch. 12: Wel, wel, sayd Sir Gawayne to Launcelot—thou shalt not escape my hands. *Magnyfycence,* 300: Wel, wyse men may eat the fysshe, when ye shal draw the pole.

IV.—ON INDEFINITE COMPOSITES AND WORD-COINAGE.

BY LOUISE POUND

Recognition of "blending" as a mode of word-formation, the telescoping of two or more words into one, as it were, or the superposition of one word upon another, is not new among etymologists, although the subject has never been given separate or very elaborate treatment. Some instances of these factitious amalgam forms, the "portmanteau words" of Lewis Carroll's *Through the Looking Glass,* the blend or fusion forms of etymologists or lexicographers, are *dumbfound* from *dumb* and *confound, dang* from *damn* and *hang, gerrymander* from Elbridge Gerry and *salamander, electrocute* from *electric* and *execute;* probably *boost* from *boom* and *hoist, lunch* from *lump* and *hunch, luncheon* from *lunch* and the now obsolete *nuncheon, scurry* from *skirr* or *scour* and *hurry, squirm* from *squir* and *swarm;* also numerous mongrel slang or dialect forms, often jocular in intention, like the American *slantendicular, solemncholy, happenstance, grandificient, sweatspiration,* or the English dialectal *rasparated, boldacious, boldrumptious.* Blend forms have been noted for French, German, and other European languages, and probably have an antiquity which it would be futile to try to trace. Wiclif and other writers, from the fourteenth to the sixteenth century, use *austern,* a composite of *austere* and *stern;* Shakespeare uses *bubukle* from *bubo* and *carbuncle,* and *porpentine,* which may be a crossing of *porcypine* and *porpoint;* and undoubtedly many such forms have won acceptance, from time to time, in the history of the language; although, in most cases, they would be difficult to solve, after use long enough for the striking or whimsical quality which gave them vogue to become dimmed.

Nevertheless it is safe to affirm that factitious blends are being made with the greatest frequency, and have their widest diffusion,

at the present time.[1] For one thing, the modern bent toward conscious analysis of language, the persistent interest in etymology, and the increased knowledge of the processes of word-formation, have led to increased self-consciousness in the handling of language. They have brought greater relish of peculiar or characteristic usages, and hence more effort—sometimes desperate and varied effort—to reach new linguistic effects. Other factors that may have helped to give special impetus to the present inclination toward fusion forms are the popularization of writing of all kinds through the spread of education and the multiplication of readers, the creation of a class of professional humorous, or semi-humorous writers, mainly journalistic, and lastly the growth of realism, which has swept into print a mass of dialect forms, whimsical, perverted, and fantastic, such as never crossed the linguistic horizon of the average reader of a hundred years ago. Especially frequent of creation at present, and accepted in standing, are blend-formations in scientific nomenclature, as *chloroform,* or *formaldehyde,* and designations created for various newly invented articles in trade, as *Nabisco* wafers, made by the National Biscuit Company, *Sealpackerchief,* for a sealed package of pocket handkerchiefs, *Pneu-Vac,* for a vacuum cleaner, or *Locomobile,* for a certain variety of automobile.

But there has not been recognition, at least not specific or definitely formulated recognition, of the fact that vague or indefinite blending exists as a mode of word-formation alongside the more obvious and intentional amalgamation which has challenged and monopolized attention hitherto. The suggestion may be speculative or conjectural, rather than concretely demonstrable; but the hypothesis here put forward, if valid, sheds light in a few dark corners of the etymological field. The most usual modes of creating folk-words at the present time are through imitation of natural sounds, as *fizz, kersplash, chug-chug;* through analogical ex-

[1] In a forthcoming study entitled *Blends: Their Relation to English Word-Formation,* to be issued in the *Anglistische Forschungen* series, the author expects to illustrate fully their vogue and the frequency of their coinage at the present time, and to note their various usages and characteristics.

tension or enlargement, as *judgmatical* or *splendiferous;* through curtailments, like *bus* from *omnibus, auto* from *automobile;* through the creation of new words from proper names, as *mercerize, mackintosh, pasteurize, boycott,* and the like. Alongside these familiar methods of language creation or modification, many words peculiarly perplexing to etymologists probably originate in a sort of indefinite or eclectic fusion of certain vaguely recollected words, groups of words, or elements in words, already existing in the language. Nor is it unlikely that echoic composites of this class may equal or outrank, in number and importance, the more intentional and recognizable fusion forms which have hitherto attracted the attention of linguists.

The process of word-coinage which, for expediency in classifying the words involved, or in characterizing their manner of origin, I have called in this paper *indefinite blending,* or *reminiscent amalgamation,* borders not only upon blending or fusion proper—definite blends of few and easily recognizable elements being the more likely to be conscious formations and to retain unimpaired the potency in implication of their various elements—but also upon *onomatopoeia,* or direct imitation of natural sounds, and upon the *unconscious symbolism of sounds.*[2] The latter arises partly from the nature of the sounds themselves; for example from the difference in suggestive power between open or close, high or low vowels; in the quality of certain consonant combinations; in the difference between explosives and continuants; between voiced consonants and voiceless. Poets in particular are likely to avail themselves of this principle to attain what is called 'tone color.' But the symbolism may also arise, or find its suggestive power, partly through *association* with familiar established words in which these sounds occur. The subtle suggestion of combinations of letters is a subject as yet little investigated.

To proceed to specific illustration, it is obvious that certain consonant groups are likely to retain the associations of prominent

[2] For a suggestive passage on the symbolism of sounds, having some bearing on the matter under discussion, see L. P. Smith, *The English Language,* pp. 102–105 (1912). But see especially H. Bradley, *The Making of English,* pp. 156–159 (1904).

words in which they are found; as the initial *sq-* of *squeeze, squelch, squirt, squirm,* may unconsciously convey the idea of impetus or motion, rather violent motion, perhaps. The final *-sh* of *crush, crash, splash, wash, gush, dash, squash, mash, swash,* etc., also suggests motion, in this case motion which is continuous, as symbolized by the final spirant. The factitious English and American *sqush,*[3] or *squush,* and the English *squish,* which have these sounds, may be direct blendings, the one of *squeeze* and *crush,* the other of *squeeze* and *swish;* but it seems more likely that they are indefinite or eclectic composites, which derive their suggestive power from the associations or symbolism of their prominent elements. *Squish* is defined in Wright's *English Dialect Dictionary* as used in the sense of *squeeze, squirt, squash, gush, mash,* and these words, vaguely recollected, may well have entered into its composition. Similarly, take the case of the initial *sn-* of *sniff, snout, snuff, sneeze, snore,* etc., words associated with the nose, or the sense of smell. The fairly recent *snuzzle,* now admitted into the dictionaries, may be a combination of this *sn-* with the ending of *nuzzle, muzzle, guzzle;* although *snuzzle* might be solved as a direct blend of *snuff* and *nuzzle;* or merely as the latter word with adscititious initial *s.* The factitious *slosh,* also admitted to the dictionaries, gains probably from the associations or symbolism of the group *slush, gush, wash, splash,* etc. The occasionally appearing *squdged,*[4] or *squudged,* implies *squeeze, crush, crowd, scrouge,* and the like.

In general it is obvious that in words so formed there would arise a feeling of natural and inherent fitness for the idea expressed. Vague conflation of this sort is an easy and tempting method of word creation,[5] and it accounts readily enough for many forms for

[3] "If I went fust down th' ladder I could click hold on him and chock him over my head, so as he should go squshin' down the shaft, breakin' his bones at every timberin'" . . . Kipling, "On Greenhow Hill," in *Soldiers Three and Military Tales.*

[4] "They've put us into boots," said Una, "Look at my feet—they're all pale white, and my toes are squdged together awfully." Kipling, "Cold Iron," in *Rewards and Fairies.*

[5] A decade or more ago (see Leon Mead, *How Words Grow,* XII, 1902), the London *Academy* offered prizes for four new words. Among

which the zealous have vainly sought foreign originals or cognates. There might be doubt as regards which words so arose; a fixed list of "indefinite composites" might not be possible; but there can hardly be doubt of the existence of the method itself.

Distinctive of this variety of blends, if they may be called such, is the fact that they so often suggest or involve onomatopoeia, as the words cited have shown; also the fact that they are not felt as specific composites, as are recognized fusion forms; *e. g., promptual, fidgitated, insinuendo, sneakret,* the *universanimous* of Lowell's *Biglow Papers,* or Wallace Irwin's *kissletoe-vine* and *night-inglory bird.*[6] There is always the sense of intrinsic fitness for the idea expressed, but not a sense of definite elements in amalgam. However, the line between blends proper and conjectural or indefinite blends is sometimes hard to draw. The now well-established though lately formed *squawk* may be a welding of *squeak* and *squall,* but *squeal, shriek, hawk,* etc., may have haunted the mind also in its creation. *Scurry,* of doubtful etymology, may be a "portmanteau form" from *scour,* older *skirr,* and *hurry;* but, were it a recent instead of an older word, one would be tempted to think that *scud, scoot,* etc., might have played some part in its formation. Into *splurge,* for which no etymology has been proposed, might enter the elements of *splash,* with its variants *splatter, splutter,* and *large. Flaunt* has been thought to blend the elements of *fly, flout, vaunt,*[7] etc. The *myowl,* used by Kipling and others, may combine *meow* and *yowl,* but it involves also the sug-

those suggested were *snumble,* to signify a child's effort to express the sensation felt in the nostrils when one drinks an effervescing mineral water, *screel,* the sensation produced by hearing a knife-edge squeal on a slate, *scrungle,* the noise made by a slate pencil squeaked on a slate, *twink,* a testy person full of kinks and cranks, and several similar formations obviously having their origin in a sort of reminiscent amalgamation.

"Echoic composites" might be a better name than "indefinite composites" for the type of blends treated in this paper, were it not for the fact that "echoic" is usually employed by philologists not in its primary meaning—that which it would have here—but in the meaning of onamatopoetic, given it by Dr. Murray, Mr. Bradley and others.

[6] "Letters of a Japanese Schoolboy," in *Collier's Weekly,* vi, viii, xix, Vols. 41, 42.

[7] *New English Dictionary.*

gestive power of *howl, wail, yell,* etc. Perhaps, if it is expedient to attempt to draw a definite line at all, blend-words proper may be defined as, or restricted to, those having two, or at most three, elements in combination; as the mongrel *quituate* from *graduate* and *quit, interturb* from *interrupt* and *disturb,* or *compushity* from *compulsion, push,* and *necessity,* or *compushency* from *compulsion, push,* and *urgency,* or *boldrumptious* from *presumptuous, bold,* and *rumpus.* Those that recall, or seem vaguely to have the potency of four words or more, might then be classed as indefinite blends. In factitious words of the first type, the elements are often deliberately and consciously chosen. In words of the second type this is by no means to be implied. But much emphasis should not be placed on the number of elements entering into blends. Of more importance surely is the distinction that coinages of the type treated in this paper are created under the influence of indefinite rather than definite suggestion. Many words which are properly to be classed as indefinite composites might depend on no more than two or three words vaguely present in the user's mind.

To some, the words under discussion are "imitative words,"[8] or "imitative variants" of existent established words. In the sense that the onomatopoetic factor enters into many, as already noted, the name is often valid; but it is less good if "imitative" is meant to imply that they are made in direct imitation of other words. The impelling motive in their creation is less conscious imitation than vague recollection, with resultant fusion, of certain elements in other words; elements which have come—largely through association or reminiscence—to have a certain symbolic power.

To attempt a fixed or exhaustive list of indefinite blends would no doubt, as already noted, prove neither very successful, nor perhaps very profitable. The short list which follows—a list

[8] See *slump,* originally meaning to fall or sink in a bog or swamp. The *New English Dictionary* calls this word "probably imitative" in origin; but compare the group *slip, swamp, plump, thump, bump,* etc., from which it might well have been built. The *Century Dictionary* enters words of the character of *croodle, flump,* etc., as perhaps "imitative words."

which might have been indefinitely extended—is meant to be suggestive only; it supplements the illustrative words already cited. Unless entry otherwise is made, the forms listed are from Wright's *English Dialect Dictionary,* and no etymology, or theory of origin, was given for them there. The list is purposely confined mainly to contemporary dialect words. After all, it is these words which one approaches with fewest predilections, and concerning which, since they are contemporary, our *Sprachgefühl* ought to be most reliable. As has been often pointed out, the processes of living dialect speech are often much more important for the investigation of the problems of linguistics, than is investigation of the literary language.

bash, strike, beat, smash. "Aa bashed me head," "Ye've bashed yer hat." Barrère and Leland, *Dictionary of Slang,* following the *New English Dictionary,* suggest Scandinavian origin, and compare Swedish *basa,* strike; but note the group *beat, bang, mash, smash, crush,* etc.

blash, a sudden blaze or flame. "Light sticks only make a blash," "His een blashed fire." "A fire into which paraffin had been thrown was said to blash up." Note *blaze, flare, flash,* etc.

bumble, bungle, blunder, halt, stumble. "He bummled on an' spoiled his work." Note *bungle, fumble, jumble, stumble,* etc.

cangle, quarrel, wrangle, haggle, cavil. "We may not stay now to cangle." Called "perhaps onomatopoetic," in the *New English Dictionary.* Noted in the *Century Dictionary* as apparently a voiced frequentative of a verb *cank,* from *camp,* with possible Icelandic cognates. But cf. the group *cavil, quarrel, wrangle, jangle, haggle,* etc.

chelp, chirp, squeak, yelp, chatter. "Children nowadays will chelp at you and sauce you," "The magpie chelps at ye." Cf. *chirp, cheep, chatter, yelp.*

chirl, chirp, warble. "The laverock chirlt his cantie sang." Cf. *chirp, cheep, trill, shrill,* etc.

chittle, twitter, warble. "The birds are chittlin' bonnily." Cf. *cheep, chirp, twitter, warble.*

criggle, wiggle, creep, crawl, wriggle. "I can feel 'un (the devil) just as if he was a-crigglin' and a-crawlin' in my head." Cf. *creep, crawl, wiggle, wriggle.*

croodle, huddle, crouch, curl, cringe, cuddle, fondle. "The lads croodled down," "Come to mother and 'er'll croodle yo." Cf. *crouch, cuddle, huddle, fondle,* etc.

crunkle, rumple, crease. "A yellow crunkled scrap." Cf. *crinkle, crumple, crease, wrinkle, rumple,* etc.

flawp, go about vulgarly and ostentatiously dressed; also a name given an awkward slovenly person. "Flaupen aboot frae mornin' ta neet," "A girt idle flawp." Cf. *flaunt, flout, flip, flop, flirt, awkward,* etc.

flaze, flare up, blaze. "This floor can't flaze, for it's made o' poplar." Cf. *flare, flame, flash, blaze,* etc.

flerk, jerk about, flourish, flip or flop. "Don't keep flerking that in my face." Cf. *flourish, flip, flop, jerk.*

flump, fall heavily, or headlong; a fall accompanied by a noise. "He went down such a flump," "A hawk flumps or flops as a bird," "He fell down full flump." Cf. *fall plump, thump, bump,* etc.

friddle, trifle, potter, waste time. "He was friddlin' on at his work." Cf. *fritter, trifle, fiddle, frivol,* etc.

glumpish, glum, gloomy, sullen. "Mary is glumpish to-day." Noted in the *Century Dictionary.* Cf. *glum, gloomy, lumpish, dumps,* etc.

scrawk, scratch, scrawl, mark; also squeak, shriek, scream. "Just scrawk yer pen through this," "Wha'dgee scrawk fur?" Cf. *scratch, mark, scrawl; scream, squall, squawk, shriek,* etc.

screek, shriek, scream, creak, make a grating noise. "She skreek'd oot like a cat yawlin'," "It skreeks so it gets my teeth on edge." Cf. *shriek, scream, squeak, creak,* etc.

screel, cry, shriek, squeal, scream. "What wi' screalin' wimmin." Perhaps built from *scream, shriek, shrill, squeal,* etc.

snaggle, giggle, snicker. "'It must be a very fine game to have such a large score,' I snaggle." *Letters of a Japanese Schoolboy,* xxxvii, by Wallace Irwin. Cf. *snicker, giggle, gag, haggle,* etc.

snuddle, nestle, cuddle. "Snuddled together like birds in a nest." Built from *snuggle, cuddle, huddle,* etc.

troddle, toddle, go. "The young things trodlin'." Note *trudge, trip, trot, toddle.*

That words of this type are the special product of modern times or contemporary conditions is by no means to be assumed. They are likely to be as old in language history as are fusion forms or hybrids, or composites in general. The words in the list cited are aggressively dialectal, it is admitted. Like all indefinite blends they tend to be telling, forceful words, not neutral; also they are predominantly rather ugly or unbeautiful formations. In words of special folk or dialect coinage there seems in general to be little striving for the attractive or agreeable. There is marked

tendency toward the jocular; but still more characteristic is the focussing of interest in the expressive.

It is probable enough that the words in the short illustrative list cited are not especially well selected from the many that suggest themselves. No doubt some among them may be in origin direct amalgams, or contaminations; others may not really be amalgams at all; they may have had for example a purely onomatopoetic origin, or they may be loan words; or they may be mere accidental or capricious perversions of forms already in existence. But some are surely obscure blendings, or reminiscent amalgams, of the type under discussion.

Volumes I–XIII of UNIVERSITY STUDIES are each complete in four numbers.

Index and title page are furnished for each volume.

Single numbers (excepting Vol. II, No. 3) may be had for 75 cents each.

A few copies of Volumes I–XIII, complete in numbers, are still to be had.

All communications regarding purchase or exchange should be addressed to

THE UNIVERSITY OF NEBRASKA LIBRARY

LINCOLN, NEB., U. S. A.

PRESS OF
THE NEW ERA PRINTING COMPANY
LANCASTER, PA

SMITHSONIAN INSTITUTION LIBRARIES
3 9088 00876 4094